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Medieval Irish Deeds of Thomond (1379–1600), from the Twigge Collection in the British Library [1]

Introduction

Deeds, contracts and other legal instruments compiled in Irish survive from the late medieval period for Thomond. Their survival owes as much to the happy fact that a disproportionate number of Irish language deeds survive in the Thomond collection, as to the fortuitous intervention of antiquaries such as Tadhg Ó Rodaighe (d.1706) and James Hardiman (d.1855). A significant portion of the surviving Gaelic legal instruments refer to people and places of east County Clare. Many refer to dealings of the O'Brien earls of Thomond and their predecessors, and owe their survival to the well-preserved legal records of the main branches of that family.[2] A significant number involve matters dealing with the Meic Conmara (McNamara) whose lordship of *Clann Chuiléin* was the geographical locus of many of the deeds. The deeds contain information about people, events and places and they deal with matters about land acquisition, contracts and other agreements. The deeds which have survived tend to be summaries of legal cases and judgements rather than an *exposé* of legal reasoning or the articulation of a certain legal position. As legal documents they retain a utilitarian quality which makes them informative pieces of evidence for the practical application of Gaelic, or brehon law, in the late medieval period.

In the early twentieth century the antiquary R.W. Twigge prepared a selection of deeds relating to east Clare as part of his wider work on the Meic Conmara of *Clann Chuiléin*. While not venturing to transcribe the original Irish text of the deeds himself, Twigge employed Irish language scholar, Rev. Patrick Dineen, to revise previous English translations. Twigge's versions of the deeds are important because the translations he used differ from earlier efforts made by James Hardiman and Eugene O'Curry. Their importance is enhanced by the fact that Twigge made copies of deeds found outside of Ireland at *Bibliothèque Nationale* in Paris which have not, to date, been published.

1 I wish to thank Brian Ó Dálaigh, Prof. Pádraig Ó Macháin, Dr Katharine Simms and Martin Breen for their helpful comments on the paper.

2 Many legal deeds have been printed in John Ainsworth (ed.), *The Inchiquin Manuscripts* (Dublin: IMC, 1961); a considerable amount, however, remain unpublished at the Petworth House Archive in West Sussex, England.

In recent times other deeds in Irish have been treated to new translations and published alongside transcriptions of the original text.[3] Despite this, Twigge's collection remains one of the most extensive among the collections of translated late medieval deeds in Irish. The fact that they have remained unpublished for over a century owes, in large part, to his untimely decease just prior to the preparation of his manuscript for publication.[4] Since that time his unfinished work has languished in relative obscurity in the British Library. It is the intention of this paper to bring his work to light in the context of current understandings of the workings of late medieval Irish land law, and make available the copies he made of the deeds.

The survival of a large volume of deeds and contracts relating to one lordship can be attributed to several factors. These include reasons relating to transmission and survival which have ensured that a corpus of legal documents in Irish was preserved into modern times. The estate management of the O'Brien earls of Thomond helped ensure that some Irish language deeds were preserved, or at least recorded, in the schedules drawn up from the mid-seventeenth century about the family's legal documents. Other deeds may have passed down for generations in other landed Gaelic families, such as the McNamaras, before finally being collected by antiquaries in the eighteenth century.

That a disproportionate number of deeds survive for east Clare does not mean that exceptional circumstances obtained there. Nor does it mean that deeds and contracts were seldom used to transact land in other Gaelic lordships. On the contrary, a body of evidence suggests that deeds and contracts compiled by professional Gaelic families such as the Meic Aodhagáin, Uí Dheoráin and Uí Mhaoilchonaire, constituted an important aspect of the governance and law of late medieval Gaelic lordships.[5] Other types of legal and pseudo-legalistic documents such as genealogical

3 See Pádraig Ó Macháin (ed.), 'Dhá Théacs Dlí', in John Carey, Máire Herbert & Kevin Murray (eds), *Cín Chille Cúile: texts, saints and places: essays in honour of Pádraig Ó Riain* (Aberystwyth: Celtic Studies Publications, 2004), 309–15; and see Gearóid Mac Niocaill, *Cáipéisí dlí i nGaeilge, 1493–1621: an edition of legal texts in Irish, with an English translation and commentary* (unpublished NUI PhD thesis, 1962).

4 R.W. Twigge, *Materials for a History of Clann-Cuilein, "Macnamara's country" (the eastern division of County Clare)*, British Library [hereafter BL] Add Ms 39262, 'Deeds, charters, etc. to 1600,' fols. 19–76.

5 For example, the Uí Mhaoilchonaire of County Clare recorded, in their 'book of chronicles', the rental of Theobald fitz Theobald Burke, baron of Castleconnell in Co. Limerick. It is likely that other similar administrative documents once survived and were kept in the custody of learned families. See Seán mac Ruaidhrí Mac Craith, *Caithréim Thoirdhealbhaigh: The Triumphs of Turlough* S.H. O'Grady (trans.), 2 (London: Irish Texts Society, 1929), 169–71; and see the deed written by the Seamus mac Cairbri Uí Cionga in 1525 for Mac Eochagain and 'an Sindach' ('The Fox') in John O'Donovan, 'Covenant between Mageoghegan and the Fox, with brief historical notices of the two families', *The Miscellany of the Irish Archaeological Society* 1 (1846), 179–97.

tracts,[6] foundation charters,[7] hagiographical and ecclesiastical texts,[8] and land grants in exchange for service,[9] were used by the Gaelic and Anglo-Irish élite to assert title over land and impose duties and levies which supported lordship and clientelism.

Presented in the appendices of this paper are thirty-eight contracts and deeds which span the period from the late-fourteenth to the early-seventeenth century. They were collected and copied by R.W. Twigge and are found in the fourth volume of his manuscript collection entitled, *Materials for a History of Clann-Cuilein, "Macnamara's country" (the eastern division of County Clare)*.[10] They are available for consultation in the British Library. The deeds were penned by Twigge during the years 1910–11, as can be ascertained from dates that appear on two folios.[11]

A number of the deeds copied by Twigge were previously translated and printed by James Hardiman in 1826 under the auspices of the Royal Irish Academy.[12] Twigge copied and revised the translation of some of these deeds. Other deeds were printed as part of the lectures of Dr J.H. Todd.[13] Twigge relied on O'Curry for a number of translations, many of which are held at Trinity College Library.[14] O'Curry's role in translating many deeds, like the earlier efforts of Hardiman, was instrumental in preparing the way for the modern study of medieval legal documents in Irish. Those deeds relating to Domhnall Ó Cearnaigh from the 1540s were

6 On the various genealogies see Nollaig Ó Muraíle, *The Irish Genealogies: Irish History's Poor Relation?* (London: Irish Texts Society, 2016).

7 The foundation charter of Rathmullen friary and castle, and also Moross castle in Donegal, are recorded in *Craobhsgaoileadh Chlainne Suibhne*. See Paul Walsh (ed.), *Leabhar Chlainne Suibhne: An Account of the Mac Sweeney Families in Ireland with Pedigrees* (Dublin: Dollard, 1920), 66–7, at 72–3. See also foundation charters in Marie Therese Flanagan, *Irish Royal Charters: Texts and Contexts* (Oxford, 2005).

8 On a discussion of charters and ecclesiastical texts used to encharter in Gaelic Ireland and Scotland in the eleventh and twelfth centuries see Dauvit Broun, *The Charters of Gaelic Scotland and Ireland in the Early and Central Middle Ages* (Cambridge: University of Cambridge, 1995).

9 In terms of land grants in exchange for services see the enchartering of brehon 'Donald Macglanghy' (Donnchadh Mac Fhlannchadha) by the earl of Ormond in *c.*1430 to a freehold estate in exchange for his services in: Edmund Curtis (ed.), *Calendar of Ormond Deeds, 1413–1509*, 3 (Dublin: Stationery Office, 1935), 50. Also see the grant of a rent-free estate made in 1501 by Sir Peter Butler to poet Donnchadh mac Aodha Mhic Craith on the Ormond lands in Curtis (ed.), *Calendar*, 300–1.

10 R.W. Twigge, *Materials for a History of Clann-Cuilein, "Macnamara's country" (the eastern division of County Clare)*, BL Add Ms 39262, 'Deeds, charters, etc. to 1600,' fols. 19–78.

11 Ibid., fols. 20, 72.

12 James Hardiman (ed.), 'Ancient Irish Deeds and Writings Chiefly Relating to Landed Property from the Twelfth to Seventeenth Century: with Translation, Notes and a Preliminary Essay', *Proceedings of the Royal Irish Academy* 15 (1826), 1–95.

13 James Henthorn Todd, 'On Some Ancient Irish Deeds', *Proceedings of the Royal Irish Academy (1836–1869)* 7 (1857–1861), 15–20.

14 T.K. Abbott & E.J. Gwynn (eds.), *Catalogue of the Irish Manuscripts in the Library of Trinity College, Dublin* (Dublin: Hodges, Figgis & Co., 1921), 305–6.

the subject of commentary by Gearóid Mac Niocaill,[15] but the translations of the versions presented here derive principally from O'Curry. These deeds and others formed the subject of Mac Niocaill's unpublished PhD thesis, *Cáipéisí dlí i nGaeilge 1493–1621: an edition of legal texts in Irish, with an English translation and commentary*.[16] Seven of the deeds were later published with translation in *Analecta Hibernica*, although none related to the Meic Conmara of east Clare.[17] Mac Niocaill was a pioneer in the modern study of the medieval Irish deeds and his writings have provided scholars with a foundation on which to more fully appreciate land law in late medieval Gaelic society. The corpus of the medieval Irish deeds is currently the focus of a new project to catalogue, analyse and eventually publish all the extant deeds in Irish. This project is directed by Kenneth Nicholls and Prof. Pádraig Ó Macháin, in cooperation with the Department of Modern Irish, University College Cork.

The following presents Twigge's unpublished copies of those late medieval Irish contracts and deeds relating to east County Clare.[18] Twigge's texts of the translations that he procured are reproduced here uncritically; the following makes no claim about the accuracy of either the translations used or the placenames identified by Twigge. Only the English translations were used by Twigge, the Irish texts of the deeds are omitted save for a few exceptions, Twigge's interest being primarily the genealogical and onomastic inclusions. What follows adheres as closely as possible to Twigge's handwritten text, including his emendations, footnotes and his copy of old translations rendered into Jacobean English.[19] Twigge's text benefits from light editing and marginal changes, mostly for grammatical or syntax reasons. Where he uses Irish orthography, it has been transcribed into Roman script, but his general neglect of the *séimhiú* and *síneadh fada* are reproduced here without correction.

The deeds – background & provenance

The Gaelic families of County Clare maintained collections of deeds and contracts dating from medieval times.[20] In some instances those deeds

15 Gearóid Mac Niocaill, 'Land-transfer in 16th-century Thomond: the case of Domhnall Óg Ó Cearnaigh', *North Munster Antiquarian Journal*, 17 (1975), 43–45.

16 Gearóid Mac Niocaill, *Cáipéisí dlí i nGaeilge, 1493–1621: an edition of legal texts in Irish, with an English translation and commentary* (unpublished PhD thesis, National University of Ireland, 1962).

17 Gearóid Mac Niocaill 'Seven Irish Documents from the Inchiquin Archives', *Analecta Hibernica*, 26 (1970), 45–69.

18 R.W. Twigge, *Materials for a History of Clann-Cuilein* (BL Add Ms 39262, fols.19–74). The transcription given here omits both the topographical notes which Twigge appended at the end of the deeds and also his related genealogical pedigrees.

19 See those deeds dated 1419, 1440, 1453, 1458, translated from the original Irish at Limerick by James McInyrhyrny and Hugh Brickdall in 1611 and printed in Hardiman (ed.), 'Deeds', 50–1. Also see Twigge, *Materials for a History of Clann-Cuilein* (BL Add Ms 39262, fol. 30).

20 The Inchiquin manuscript collection contains estate and legal papers from the O'Brien,

have survived into modern times, for others only their schedules have survived, providing some indication about the extent of the original holdings. A 1640 register of deeds and writings, once the possession of Sir Barnaby O'Brien, sixth earl of Thomond (earldom: 1639–1657), is held at Petworth House, West Sussex, and provides ample evidence that the O'Brien earls possessed at least twenty deeds in Irish.[21] The array of these deeds reflect their dealings with collateral Uí Bhriain (O'Brien) relatives, especially in the west Clare baronies of Ibrickan and Corcomroe. It is likely that the actual number of Irish deeds was more numerous but many have since been lost or destroyed. Given the fact that the compiler of the 1640 register not only recorded the existence of 'Old Irish writing[s]', but also the existence of 'Old Irish scroles' and 'bundles of writings in Irish', means that other deeds were enrolled in scrolls and bundles. Many of these deeds have not survived and it is difficult to say what their fate was. Of those that survived into the mid-nineteenth century, some found their way into James Hardiman's 1826 collection of ancient Irish deeds.[22]

The earliest of those Irish deeds mentioned in the 1640 register date from 1520 and referred to an agreement between 'Connor O Bryen and one Tibott Boork'. Deeds such as this show that during the first half of the sixteenth century Gaelic-Irish rulers (and some Anglo-Irish), transacted land under Gaelic brehon law and had their legal agreements written in Irish. During this period and earlier, agreements made with English authorities were often drawn up in Latin rather than English, most notably the submission documents of Brian Ó Briain, King of Thomond, to a representative of King Richard II in 1395.[23] Agreements between Gaelic rulers and their Gaelicised Anglo-Irish counterparts were frequently made in Irish. It was the professional class of 'jurisconsults', known as 'brehons' (s. *breitheamhain*, pl. *breitheamh*) that were employed to produce legal instruments for their patrons. Brehons dispensed legal functions which

McMahon and Neylon families. See Brian Kirby, *Inchiquin Papers: Collection List No. 143* (Dublin: National Library of Ireland, 2009). Other families also maintained collections of deeds, some of which have survived into modern times. For example descendants of the O'Loghlen family of Gragans in the Burren preserved seventeenth-century legal deeds which have recently been published. See Luke McInerney, 'Note on the petition of Turlogh O'Loghlen of Gragans, Burren, County Clare (c.1663)', *The Other Clare*, 41 (2017), 15–25.

21 Petworth House Archive [hereafter PHA], Ms C/13/27, 'A Register made by the Right Hono:ble Barnaby Earle of Thomond of all the Evidences & writings att Bunratty', Chichester, England.

22 For example, the 1640 register mentions an agreement from 1635 concerning Ballymacloone near Quin in County Clare which cited an earlier Irish indenture that almost certainly can be identified as one of two deeds in Irish (dated 1542 and 1545), printed by Hardiman in 1826. On the 1640 register see: PHA Ms C/13/27, 'A Register made by the Right Hono:ble Barnaby Earle of Thomond of all the Evidences & writings att Bunratty', Chichester, England. Also see: Hardiman (ed.), 'Deeds', 55–8. The 1635 agreement is printed in: Luke McInerney, 'Documents from the Thomond Papers at Petworth House', *Archivium Hibernicum*, 64 (2011), 7–55, at 24–7, 38–9.

23 Rev. Myles V. Ronan, 'Some Medieval Documents', *Journal of the Royal Society of Antiquaries of Ireland*, 67:2 (1937), 229–41, at 230–2.

included arbitration, litigation and criminal law, and operated what may be characterised as a system of private jurisprudence.

Insofar as it may be gathered from the 1640 register the Uí Bhriain – whose leaders were styled *Tighearna Tuadhmhumhan*[24] ('Lord of Thomond') – used brehon law to administer their lordship. The type of legal instruments issued by their brehons included contracts, land conveyances and deeds setting out proprietorial rights of families and individuals. This was no different to Gaelic lordly families elsewhere, including the Scottish *Gàidhealtachd*.[25] In these areas, too, Gaelic law was promulgated by professionally-trained brehons who benefited from privileges and other emoluments from their patrons. The manner of landholding of the aristocratic Uí Bhriain, until the mid-sixteenth century, followed Gaelic inheritance practices whereby estates were divided by 'gavelkind'[26] among the eligible male heirs.[27] This practice was in contrast to primogeniture inheritance, permissible under English common law, but seldom a feature in the brehon law of inheritance.[28]

The question as to the original provenance of the Thomond deeds that have come down to us is difficult to answer with certainty, but the 1640 register provides some elementary clues. Most likely a common source existed among those Irish deeds in the 1640 register, including some of the deeds printed by Hardiman (i.e. 'Egerton Charters' 97–99), as well as those translated by O'Curry and are now in the Trinity College Library. Some of the deeds which survived into the nineteenth century, and were printed by Hardiman, were not originals. Indeed a number had

24 John O'Donovan (ed.), *Annala Rioghachta Eireann: Annals of the Kingdom of Ireland by the Four Masters, from the Earliest Period to the year 1616*, 7 vols (Dublin 1848–51; repr. Dublin, 1856; repr. Dublin, 1990), *sub anno*, 1343 [hereafter *AFM*].

25 A number of charters were issued by Gaelic families (and written by members of the hereditary professions) in Scotland, especially prior to the forfeiture of the Lordship of the Isles. See Jean Munro & Robert William Munro, *Acts of the Lords of the Isles, 1336–1493* (Edinburgh: Scottish History Society, 1986). Also see those legal documents specifically produced by the Clann Meic Bheathadh (McBeth or Beaton) medical lineage in John Bannerman, *The Beatons: A Medical Kindred in the Classical Gaelic Tradition* (Edinburgh: John Donald Publishers, 1986).

26 Gavelkind was a system of inheritance whereby a deceased person's land was divided among the male heirs. The custom was observed in different parts of Europe, including Kent in England and in parts of Ireland and Wales.

27 There are many instances of 'gavelkind inheritance' in Thomond. Examples may be found in a Chancery Pleading of the earls of Thomond and O'Briens of Pubblebrien in Limerick, where it stated that gavelkind operated 'time out of mind'. Gavelkind is also found among the O'Hehirs of County Clare. See National Archives of Ireland, *Chancery Pleadings for County Clare, 1584 – 1637* (Series AA, No. 197, p. 72), Ibid. (Series T, no. 48, p. 11); and Ibid. (Series BB, no. 162, p. 47).

28 According to a Court of Chancery Pleading dated 1627, the estate of King Conor O'Brien (d.1539) descended to his six sons 'by the custom of Gavelkind (time whereof the memory of man is not to the contrary in these parts had and allowed) devisable between all the sons of him'. See National Archives of Ireland, *Chancery Pleadings for County Clare, 1584 – 1637* (Series AA, no. 197, p. 72).

already been copied several times and, according to Twigge, suffered from 'debased orthography'.[29] One deed from 1502 contained a note from its brehon writer claiming that he 'found it in the old charter', presumably meaning that he made a copy from the original deed.[30] Elsewhere in the same deed, but in a different hand, it reads *copia vera examinata cum originali*, suggesting that the original had also been examined at a later period.[31] Another deed from 1512 about the Uí Mhiadhacháin family states that it was a copy written 'word for word', and that it was in 'the tongue in which the charter itself is written being Irish'.[32] From this we see that brehons were active in copying and revising deeds. Presumably for reasons of law and evidence, legal documents were kept by brehons, serving as a record of agreements that could be periodically referred back to or used as case-law.

It has been suggested that some of the deeds which ended up in the hands of Hardiman in the 1820s can be traced to a set of Irish deeds handed over to Dean Smyth, later Bishop of Kilmore and Ardagh, during the 1680s or 1690s.[33] From Dean Smyth the deeds may have passed to the Gaelic antiquary, Tadhg Ó Rodaighe, of Crossfield, Co. Leitrim. Ó Rodaighe lived on ancestral land which was property of the church, and his acquaintance with Protestant Bishop William Sheridon might explain the deeds passing to Ó Rodaighe from Dean Smyth. After Ó Rodaighe's death in 1706, some deeds were passed down to Arthur Mahon (d.1788) of Strokestown, Co. Roscommon, before ending up in Hardiman's own collection (augmented by other deeds from solicitor William Dix and from statistician William Shaw Mason).[34] These deeds constituted the thirty-nine deeds published by Hardiman in 1826.

An alternative explanation for the provenance of the deeds published by Hardiman, some of which were later copied by Twigge, is that Ó Rodaighe obtained them upon his marriage to Fionnghuala Nic Chonmara. Her family were from 'Derada' (*Doire Fhada*, 'long oak forest'), now Derryfadda in the parish Feakle in east Clare.[35] In the aftermath of the Williamite victory at the Boyne in 1690, Ó Rodaighe fled Leitrim and took refuge with his wife's family in Feakle.[36] It is possible that those deeds which had a strong Meic Conmara focus were preserved by the Feakle McNamaras

29 Twigge, *Materials for a History of Clann-Cuilein* (BL Add Ms 39262, fol. 29).
30 Twigge, *Materials for a History of Clann-Cuilein* (BL Add Ms 39262, fol. 34).
31 James Todd first drew attention to the fact that this deed was likely a copy of the original. See James Henthorn Todd, 'On an ancient deed in the Irish language', *Proceedings of the Royal Irish Academy* 7 (1857–1861), 247–49.
32 Twigge, *Materials for a History of Clann-Cuilein* (BL Add Ms 39262, fol. 37).
33 William O'Sullivan, 'The Book of Domhnall Ó Duibhdábhoireann, Provenance and Codicology', *Celtica*, 23 (1999), 276–99 at, 279–80.
34 Hardiman (ed.) 'Deeds', 4.
35 See Seosamh Mac Muirí, *Tadhg Ó Rodaighe, An Scolaidhe Tréitheach* (Baile Átha Cliath: Coiscéim, 2014).
36 O'Sullivan, 'Book', 280–1.

and were subsequently obtained by Ó Rodaighe, finding their way into the Hardiman collection a century or so later.

Twigge's deeds include several that are found in *Bibliothèque Nationale* in Paris. These deeds were not among those published by Hardiman, nor do they feature in the collection of deeds at Trinity College Library. It is likely they also share a common origin with the other deeds in having a Thomond provenance, which their east Clare focus suggests. Probably they ultimately derived from a collection of legal documents held at Bunratty castle library in the 1640s, but were later dispersed.[37] Twigge's inclusion of these otherwise fragmentary deeds, completes the collection for east Clare and highlights the importance of the large corpus of deeds which he copied.

The Twigge Collection

R.W. Twigge was one of a number of antiquaries prolific in the fields of history, folklore and genealogy. It was in the latter field that he excelled, and his connection to the McNamara family through his wife Frances Susan, daughter of Col. Francis Macnamara, Esq., of Ennistymon, provided the inspiration for his impressive collection of family genealogies. His contemporaries included Thomas J. Westropp (1860–1922)[38] and Dr George U. Macnamara (1849–1919),[39] two well-known contributors to learned journals such as the *Journal of the Royal Society of Antiquaries of Ireland*, the *Limerick Field Club* and the *Journal of the North Munster Archaeological Society*. Twigge was in contact with these antiquaries and others like the Rev. Dr Richard Henebry (1863–1916), first professor of Irish at University College Cork.[40] Evidence of Twigge's wide-ranging contacts is found in the surviving correspondence preserved among his manuscripts.

Following his death in 1915, Twigge's widow donated twelve volumes of his writings to the British Library. These writings were intended to form a historical, topographical and genealogical collection relating to the McNamara family. In total, these volumes amounted to 3,653 manuscript folios, some of which were in an advanced state of readiness for publication.[41] Information gathered together in his work constitutes one of the

37 On the library and books at Bunratty see Brian Ó Dálaigh, 'An Inventory of the Contents of Bunratty Castle and the Will of Henry, Fifth Earl of Thomond, 1639', *North Munster Antiquarian Journal*, 36 (1995), 139–65.

38 See Liam Irwin, 'Thomas Johnson Westropp, 1860–1922', in Próinséas Ní Chatháin & Siobhán Fitzpatrick with Howard B. Clarke (eds), *Pathfinders to the Past: The antiquarian road to Irish historical writing, 1640–1960* (Dublin: Four Courts Press, 2012), 131–43.

39 See Peter Harbison, 'George Unthank Macnamara (1849–1919): Corofin's great medical antiquarian', *The Other Clare*, 32 (2008), 38–46.

40 See the letter by Richard Henebry to George U. Macnamara, dated 15 December 1910, and preserved in Twigge, *Materials for a History of Clann Cuilein*, Add Ms 39266 (British Library), fols. 375–6.

41 I wish to thank Martin Breen of Ruan, County Clare, for his advice on R.W. Twigge. Also see

most detailed attempts of producing a history of County Clare and its Gaelic families. His manuscripts contain valuable genealogical schedules[42] and copies of source material, including some that perished in the 1922 fire of the Dublin Four Courts.[43]

Twigge was active as an author and he published in 1908 a book titled, *The Pedigree of John Macnamara, Esquire, with Some Family Reminiscences*. His untimely death dashed any plans for publishing his voluminous manuscripts. It may be gathered from his surviving correspondence that despite suffering ill-health, his appetite for work showed little diminishment. It is unfortunate that he failed to heed the cautionary words of fellow antiquary and physician, Dr George U. Macnamara. In a letter from March 1915 he warned Twigge not to 'overdo things', and recommended that he adopt the rather prudent motto, *festina lente*.[44] Five months later Twigge died at the age of 63.

Twigge was ostensibly the mould of a nineteenth century antiquary. Careful and prudent he faithfully copied materials which have since disappeared. He excelled in languages and was as *au fait* with old English manuscripts as he was with Latin or French. In the judgment of Dr George U. Macnamara, Twigge was accomplished and erudite, and entertained wide interests. Born at Pickhill in Yorkshire in 1852 to Anglican rector, Rev. William Twigge,[45] his studies in Rome saw him convert to Catholicism. He was well travelled and he was acquainted with the Irish material at the *Bibliothèque Nationale* in Paris, which no doubt he inspected himself. One of his earliest publications was a history of his mother's aristocratic

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the catalogue entry in the British Library wherein it states that Twigge's manuscripts were presented to the library by Frances Susan Twigge (née McNamara) in 1916.

42 The main genealogies of east Clare families are found at BL Add. Ms 39266, vol. VIII and include: O'Brien of Ballycorick; O'Brien of Carrigogunnell; MacBrien of Coonagh; O'Brien of Ennistymon; O'Brien of Toonagh; Brady of Kilcorney, County Galway, the city of Limerick and of Myshall, County Carlow; Clancy (Mac Flannchadha); Lysaght (MacGiolla Iasachta); MacDonough (MacDonnchadha); MacInerney (Mac an Oirchinnigh); MacMahon (MacMathghamhna); Magrath (MacCraith); Molony (Ó Maol Domhnaigh); O'Callaghan (Ó Ceallacháin); O'Davoren (Ua Dabhoirean or Ó Duibh dá Bhoireann); O'Dwyer (Ó Duibhir); O'Grady (Ó Gráda); O'Hickey (Ó hIcidhe); O'Hogan (Ó hÓgáin); O'Hynes or Hynes (Ó hEidhin); Kennedy (Ó Cinnéidigh); O'Mulconry (Ó Mulconaire); O'Shaughnessy (Ó Seachnasaigh). Other pedigrees are found at BL Add. Mss 39267 and 39270.

43 See, for example, Luke McInerney, 'The West *Clann Chuiléin* Lordship in 1586: Evidence from a Forgotten Inquisition', *North Munster Antiquarian Journal*, 48 (2008), 33–62.

44 i.e. 'make haste slowly'. I thank Martin Breen for this reference. See Twigge, *Materials for a History of Clann-Cuilein* (BL Add Ms 39266, fols. 3–4).

45 On the death of his father in 1879, R.W. Twigge dedicated a window to him at Pickhill church in Yorkshire. The window contained the coat of arms of Twigge and Younghusband, complete with the figures of St William of York and St Oswald, king of Northumbria, two patron saints of the family. See Winefride de L'Hôpital, *Westminster Cathedral and its Architect*, 2 (New York: Hutchinson & Company, 1919), 530–1.

family, the Younghusbands.[46] In 1896 he wrote an important paper on the Cathedral of St. Cecily at Albi in the south of France.[47]

In 1888 he married Frances Susan Macnamara, daughter of Col. Francis Macnamara, Esq., of Ennistymon (d. 1873). They had one daughter, Olive (b. 1889), and lived for many years in Kensington, west London. His marriage connected Twigge with a landed family from County Clare. Some detail on the difficulties in his early life may be extracted from a libel suit that he launched against his brother-in-law (and high-sheriff of County Clare) Henry Valentine Macnamara, in 1888.[48] The lawsuit had its origin in Macnamara's view that Twigge was unworthy of his sister's hand in marriage due to his own limited means. Evidenced adduced from the lawsuit shows that Twigge had property at Selby in Yorkshire and also at St John's Wood in London. Twigge came to London in 1870 and was employed for three years at Goode's Chartered Accountants as an articled clerk. After this time he lived by private means and in 1879 he was elected to the Royal Society of Antiquaries of London, a position he held until his death.[49] His activities were not limited to historical pursuits and he was active as a member of the Reform Club in London.[50]

Twigge was a man of means and after his marriage to Frances Susan Macnamara they lived in Kensington with their young daughter and two servants.[51] By 1911 he was residing at the exclusive address of 21 Cambridge Terrace, Regent's Park.[52] He died on 26 August, 1915 at Richmond in Yorkshire, and his obituary in the *Journal of the North Munster Archaeological Society* noted that he held the honorary position of Privy Chamberlain of the Sword and Cloak to Popes Leo XIII and Pius X.[53]

The Twigge collection amasses volumes of historical material relating to County Clare, ranging from hagiography to topography, to law suits and land surveys. The breadth and depth of his collection indicates that he visited many sites of historical interest. His survey of *Daingean Uí Bhigín*

46 R.W. Twigge, *Notes on the family of Younghusband, of Northumberland* (London: Mitchell & Hughes, printers, 1877).

47 R.W. Twigge, Esq., F.S.A.. 'Notes on the Cathedral Church of St. Cecily at Albi', *Archaeologia: or Miscellaneous Tracts relating to Antiquity*, 55:1 (1896), 93–112.

48 See *The Times*, Tues., 19 June 1888, pp 3–4; and *The Times*, Wed., 20 June 1888, 4–5.

49 On his election to the Royal Society of Antiquaries of London, see [anonymous], *List of The Society of Antiquaries of London 1913: on the 30th June 1913* (London, 1913), 28.

50 See Twigge's advertisement in 1909 for information on the families of McMahon, McNamara and O'Brien in County Clare, France and America, and where he gives his postal address as the Reform Club, London. See Chas. A. Bernau, *The International Genealogical Directory* (2nd ed.) (Walton-on-Thames, 1909), xxix.

51 *Census of England and Wales* (1891), Civil Parish: Kensington. His address was 10 Wynnstay Gardens and occupation was 'own means'. He also held the honorary position of 'Privy Chamberlain to H.H. Leo XIII'.

52 *Census of England and Wales* (1911), Civil Parish: Paddington.

53 George U. Macnamara, 'Obituary', *Journal of the North Munster Archaeological Society*, 3:4 (1915), 379.

castle[54] shows acquaintance with the site, and his survey of parishes in east Clare points to a familiarity with topography only attainable by actual observation.[55] Twigge used an address in Dublin which probably served as his abode while frequenting the Royal Irish Academy in Dublin.[56] Twigge's collection includes detailed genealogical pedigrees of the principal families of County Clare. His collection of Irish deeds is a valuable addition to the material he gathered. On occasion Twigge makes parenthetical remarks about the translations. Where translations of others are not sufficient or accurate, he refers to the fact, such as in the case of James Frost, whom he criticised.[57]

Twigge largely relied on the translations of others and in noting the source of the translations he explains the difference between the translations he used, and ones made earlier. In one such note he wrote: 'the following translations of the deeds, originally made by Hardiman, Todd and O'Curry, were carefully revised in 1902 by the kind assistance of the Rev. P. Dineen and other people'.[58] In the Rev. Patrick Dineen, Twigge found a competent translator and lexicographer, one who was a leading figure in the Gaelic revival movement and author of *Foclóir Gaedhilge agus Béarla/An Irish-English dictionary* (1904).[59] Twigge and Dineen collaborated on a number of writings and in 1912 he published an extensive translation by Dineen of an important genealogical tract contained in the *Leabhar Uí Mhaine*.[60] The translations of the brehon deeds which Twigge copied were being prepared as a sort of schedule to his main work, *Materials for a History of Clann-Cuilein*. In addition to the deeds, he prepared an appendix list of placenames and a genealogy of named persons from the deeds.

Twigge's work on placenames benefited from earlier work by O'Curry, and from the research of Rev. Patrick Dineen, and his subsequent writings owed a large debt to these scholars. Their work informed Twigge's writings on County Clare, not least his genealogical pedigrees which appear in

54 Twigge, *Materials for a History of Clann-Cuilein* (BL Add Ms 39261, fol. 136).
55 Ibid., fols. 210–421.
56 His address in Dublin in 1902 was: 3 Monkstown Crescent. In that year Twigge commissioned Rev. Patrick Dineen and others to revise the translation of some of the Irish deeds held at the Royal Irish Academy. Frances Susan Macnamara was born at Kingstown in Dublin, and the Monkstown Crescent property may have been her family's and used by Twigge when visiting Dublin. I thank Martin Breen for this information. Also see Twigge, *Materials for a History of Clann-Cuilein* (BL Add Ms 39263, fol. 29).
57 See Twigge, *Materials for a History of Clann-Cuilein* (BL Add Ms 39262, fol. 34).
58 Ibid., fol. 29.
59 Patrick S. Dinneen (ed.), *Foclóir Gaedhilge agus Béarla/An Irish-English dictionary* (London: David Nutt, 1904). On his contibution to the field of Irish language lexicography and study see: Deirdre Nic Mhathúna, 'Pioneering Jesuit Irish Language Editors: Dinneen, MacErlean and McGrath', *Studies: An Irish Quarterly Review*, 103: 412 (Winter 2014/15), 473–84.
60 On Dineen's contribution see: R.W. Twigge, 'The treatise on the Dal-gCais in Leabhar Ui Maini: Part IV', *Journal of the North Munster Archaeological Society*, 2:3 (1912), 165–74.

volumes eight and twelve of his manuscripts.[61] The pedigrees stand as exemplary proof of the feasibility of synthesising annalistic, genealogical, legal and other material to chart medieval Gaelic lineages. Twigge's achievement in recording and charting these speak volumes about his contribution to local history. For these reasons the Twigge collection, including his copying of the medieval Irish deeds, stand as an important work on County Clare. Twigge remains one of the leading antiquaries of twentieth century County Clare, and his contribution ought to be merited alongside more well-known antiquaries such as Dr George U. Macnamara and Thomas J. Westropp.

Medieval deeds of Thomond

There are approximately one hundred surviving medieval muniments in Irish, the majority of which pertain to judicial decisions, agreements, and lists of debts and complaints. Others stand as acknowledgments, testaments and settlements of disputes. In addition to the surviving deeds, a smaller number exist only in translation such as the 1568 agreement between the Uí Dheághaidh (O'Deas) of Dysert and their kinsman, Conchobhar Ó Deághaidh, Bishop of Kilmacduagh.[62] There exists other scattered references to Irish deeds but it is unclear if any were preserved into modern times. William Neylon, the son of the Bishop of Kildare, had fifty deeds in his possession in the year 1600, of which three were in Irish.[63] Of the deeds that have come down to us, roughly one third indicate a Thomond provenance. Twigge copied only translations of those deeds relating to the McNamaras (Meic Conmara) of east Clare, omitting those later published by Mac Niocaill, involving the Clann Mhathghamhna (McMahons) of Corkavaskin and other families.[64]

While a small number of those deeds used by Twigge can be traced to the fifteenth century, the bulk relate to events of the sixteenth century. The second-half of the sixteenth century was a time when Gaelic law underwent revision, partly as a response to the escalation of violence and the imposition of English common law from the 1570s in County Clare.[65] The early medieval brehon law codes, couched as they were in anachronistic Old Irish, were not, by themselves, a serious guide to the application of law in Gaelic territories by the sixteenth century.[66] By this time the early

61 Twigge, *Materials for a History of Clann-Cuilein* (BL Add Mss 39266, 39270, vols. VIII, XII).
62 Ainsworth (ed.), *Inchiquin*, 274–6.
63 Ibid., 298.
64 Mac Niocaill, 'Seven Irish Documents', 45–69.
65 See *AFM*, *sub anno* 1570; and see J.S. Brewer & William Bullen Esq. (eds.), *Calendar of the Carew Manuscripts Preserved in the Archiepiscopal Library at Lambeth, 1575–1588* (London: Longmans, Green, Reader & Dyer, 1868), 115–7.
66 Mary O'Dowd, 'Gaelic Economy and Society,' in Ciaran Brady & Raymond Gillespie (eds.), *Natives and Newcomers: Essays on the Making of Irish Colonial Society, 1534–1641* (Dublin: Irish Academic Press, 1986), 134–9, at 126. On the operation of brehon law in the medieval

law texts were being re-worked and re-interpreted by glossators in the law schools in an attempt to retrofit modern ideas and legal workings upon arcane concepts.[67] One such example is the revision and glossing of law texts by the Uí Dhuibhdábhoireann of Cahermacnaughten in the Burren during the 1560s.

Irish deeds are an important source of authority for the operation of Gaelic law and also for the development of non-literary early-modern Irish in which many were written. It is well known that brehons were retained by native lords, and the corpus of deeds, legal manuals and writings produced by them demonstrates the sophistry attained by Gaelic jurists who formed a class of *literati*, along with other professional families such as the poets, historians, physicians and master craftsmen. The Gaelic *literati* were distinctive not because they were an élite group *per se*, but because they cultivated a remarkably cohesive *esprit de corps* that came to dominate intellectual life from the twelfth to seventeenth centuries. The deeds also cast light on the nature of land tenure and the fortunes of land-holding families who conveyed property or litigated for property rights. It is reasonable to assume that the surviving deeds account for but a fraction of what was originally produced in the law schools.

The utilitarian nature of the deeds suggests that they served a rather narrow purpose. They were chiefly *notitiae* recording agreements or contracts, rather than necessarily representing the actual contract itself. When, for example, a deed is missing named witnesses, its purpose is likely to be declarative and produced primarily as a public record. What was important were the actions of the guarantors of the agreement, rather than the production of deeds and contracts themselves. This accounts for the fact that many of these deeds were not sealed, unlike legal agreements found in other medieval legal systems.[68] Moreover, the deeds were written as functional documents and in this respect differ from many of the formulaic and literary writings of the poets and historians. In step with the rest of Europe, greater demand for written texts such as foundation charters and codified laws from the eleventh century saw a commensurate rise in

period see: Kevin Murray, 'Thoughts on the Operation of Native Law in Medieval Ireland', *Proceedings of the Harvard Celtic Colloquium*, 22 (2002), 156–71.

67 See Nerys Patterson, 'Gaelic law and the Tudor conquest of Ireland: the social background of the sixteenth-century recensions of the pseudo-historical prologue to the *Senchas Már*, *Irish Historical Studies* 27:107 (1991), 193–215. On the later commentaries by the glossators see Katharine Simms, 'The Contents of Later Commentaries on the Brehon Law Tracts', *Ériu*, 49 (1998), 23–40. On the glosses of the sixteenth century brehon lawyer, Domhnall Ó Duibhdábhoireann, see Whitley Stokes (ed.), *Three Irish Glossaries: Cormac's glossary, Codex A, O'Davoren's glossary and a glossary to the Calendar of Oingus the Culdee* (London: Williams & Norgate, 1862). On the operation of brehon law both in terms of its original intent and its later medieval operation see Fergus Kelly, *A Guide to Early Irish Law* (DIAS: Dublin, 1988).

68 Katharine Simms, *Medieval Gaelic Sources* (Dublin: Four Court Press, 2009), 95.

formulaic charters and agreements in Ireland.[69] From around this time the alienation of property was being permanently recorded and ecclesiastical institutions as large propertied entities sought unencumbered title to tracts of land. Many of the deeds copied by Twigge and his predecessors like James Hardiman date from the later medieval period and before they ended up in print in modern times, were originally written on small pieces of vellum. These deeds were distinct from earlier ones that appear as marginalia in unrelated literary texts and were produced to record property and business transactions of ecclesiastical foundations.[70]

The deeds along with the corpus of law-tracts can present formidable barriers to interpretation. Insofar as recording the humdrum of property conveyance and civil suits, the deeds do not share the same status as the literary texts of the professional poets or historians. However, the detail contained in the deeds relates information about people, events and places and so exceed their own value as simply legal texts. The texts that have survived did so because they were kept as a summary or public record by the parties involved, such as landholders and aristocratic families, rather than by brehon families. It is probably no coincidence that a disproportionate number of Irish language deeds survive in the Thomond collection, which almost certainly was on account of the O'Brien earls. The deeds, by virtue of being summary records, have a utilitarian quality about them, generally devoid of detailed legal reasoning or the recitation of case law. It is feasible that the formal contract and agreement, where it existed, was kept separately in the law schools but did not survive the wholesale destruction and loss of those manuscripts.

Deeds and contracts were routinely counter-signed by members of professional families to ensure legitimacy, often only leaving the summary record to survive rather than the whole agreement or any case law. Legal agreements were endorsed by brehons, poets, churchmen, or by members of ruling families who commanded sufficient status to ensure that the terms were ratified.[71] We see this in a deed from 1573 where Siacus Ua Connallain, the vicar of Bunratty, appeared as both witness and bailiff.[72] Gaelic society had an elaborate system of surety which was the means by which legal decisions were enforced. Everyone within Gaelic society was ranked according to their property, and this rank was linked to a person's honour-price which determined their standing in law. The surety system was the mechanism by which agreements were honoured, because

69 Clare Downham, *Medieval Ireland* (Cambridge: University of Cambridge, 2018), 77.

70 For those medieval charters copied into the Book of Kells see John O'Donovan, 'The Irish Charters in the Book of Kells', *The Miscellany of the Irish Archaeological Society*, 1 (1846), 127–158; and Gearóid Mac Niocaill, *Notitiae As Leabhar Cheanannais 1033–1161* (Dublin: Cló Morainn, 1961).

71 Simms, *Gaelic Sources*, 95.

72 Hardiman (ed.), 'Deeds', 71–2.

Gaelic law was dependent on each party in an action or suit in providing themselves with guarantors who would see to it that the judgment of the brehon's court would be adhered to.[73]

Sureties feature prominently in the deeds copied by Twigge and they typically include sums of money that were liable to be forfeit if the terms were not fulfilled. An important deed between the third earl of Thomond and Tadhg Mac Conmara, lord of *Clann Chuiléin*, sets out the conditions for Mac Conmara's acknowledgement of the overlordship of the earl, involving sureties which reflected the political nature of the agreement.[74] Sureties were provided from leading vassals of the O'Briens, including the Mac-Uí-Bhriain of Arra and the Uí Chinnéde of Tipperary.

Contract writing by brehons not only served the function of transferring property rights between parties, but also provided a documentary record of an event that had occurred. Since the purpose was evidentiary rather than dispositive, contracts and deeds were often couched in the past tense and in a way that was composed for public consumption such as listing a number of witnesses. This was important for land transfer because effective title lay in the memory of witnesses to the transaction and its validity relied not only on the written deed but the witnesses' confirmation of what had taken place. Brehons placed themselves in the centre of this process and their professional role enabled them to adjudicate upon matters, taking into account transacting parties' rank, lineage affiliation and legal standing.

Deeds composed by brehons, such as the ones presented here, were compiled by men learned in the classical Gaelic tradition of *féineachas*. As Katharine Simms has pointed out, these 'poetic brehon lawyers' underwent intensive training and learned to read the law texts which were composed in Old Irish.[75] Sometimes they versified in poetic couplets to debate an issue or pronounce a judgement. The use of such literary devices was designed to display dexterity and skill of both language and versification. One poetic judgement concerning the 'ownership' of the river Shannon involved brehons from the Meic Aodhagáin and Meic Fhlannchadha families.[76] In the law schools they studied poetry or *filidheacht*, and were expected to be proficient in the language and its poetic composition, along with its technical aspects such as its finely wrought meters.

Just as the poets, musicians and historians were recruited from

73 Joseph R. Peden, 'Property Rights in Celtic Irish Law', *Journal of Libertarian Studies*, 1:2 (1977), 81–95 at 87.

74 Twigge, *Materials for a history of Clann-Cuilein* (BL Add Ms 39262, fols. 66–8).

75 Katharine Simms, 'The Poetic Brehon Lawyers of the early sixteenth century Ireland', *Ériu*, 57 (2007), 121–32.

76 Brian Ó Cuív, 'Poetic Contention about the River Shannon,' *Ériu* 19 (1962), 89–110. On the Meic Aodhagáin brehon law school see: Thomas B. Costello, 'The Ancient Law School of Park, Co. Galway', *Journal of the Galway Archaelogical and Historical Society*, 19:1/2 (1940), 89–100.

hereditary professional families whose learning was transmitted over generations by the keeping of schools or systems of apprenticeship, brehon lawyers were recruited from similar backgrounds. It has been argued elsewhere that while the education of the historians and brehon lawyers tended to be shaped by a 'backward look', reinforced by the employment of archaic legal tracts in Old Irish and by the literature of the pre-reform church *scriptoria*, this did not necessary transpire in their professional activities.[77] The writing of contracts and deeds by the brehon lawyers on behalf of the Gaelic and Anglo-Irish nobility, drew from a diversity of sources that included customary law, civil and canon law, and an acquaintance of English common law.[78] Some of these elements can be found in the surviving brehon deeds of east Clare.

Brehon deeds of east Clare

Many of the deeds copied by Twigge were written or notarised by the Meic Fhlannchadha (McClancy) brehon family. The Meic Fhlannchadha were a professional hereditary legal family with two principal branches in Thomond; one settled in Killilagh parish in Corcomroe and a secondary branch in Kilmaleery and Kilnasoolagh parishes (near Bunratty).[79] The former, in all likelihood, was the senior branch and was attached to their chief patrons the Uí Bhriain. The *Tradraighe* branch were settled in the lordship of the Meic Conmara, and the earliest reference to them dates from a supplication by a Mac Fhlannchadha cleric who litigated at the Roman Curia to hold benefices in Killilagh and Kilnasoolagh parishes in 1405 and 1418.[80]

The so-called 'Egerton Charters',[81] printed by Hardiman, show the Meic Fhlannchadha of *Tradraighe* practising as arbitrators and public notaries from the mid-fifteenth century. Deeds and contracts were drawn up by them as evidence of land title. Their deeds also stood as a record of litigation concerning rights to property and for other things such as determining compensation (*éiric*) for aggrieved parties.[82] Their earliest dateable deed is from 1440 and was by 'Conor Cleanchy' who signed himself as a *notarius*

77 Katharine Simms, 'Gaelic Culture and Society', in Brendan Smith (ed.) *The Cambridge History of Ireland, Volume I: 600–1550* (Cambridge: Cambridge University Press, 2018), 415–440, at 426.

78 Ibid.

79 See Luke McInerney, 'The Síol Fhlannchadha of Tradraighe, Co. Clare: Brehon Lawyers of the Gaelic Tradition', *Eolas: The Journal of the American Society of Irish Medieval Studies*, 9 (2016), 19–54.

80 'Lateran Regesta 122: 1404–1405,' *Calendar of Papal Registers Relating to Great Britain and Ireland*, 1404–1415, 6 (London: H.M. Stationery Office, 1904), 42; and 'Lateran Regesta 200: 1418–1419,' *Calendar of Papal Registers Relating to Great Britain and Ireland*, 1417–1431, 7 (London: H.M. Stationery Office, 1906), 108.

81 See, for example, Egerton Ms 98, 99, 90.

82 On a deed concerning compensation see RIA Ms 24 G1 [date: *c.*1550].

publicus and he appears in a second deed from 1458.[83] Another deed was written by Tomás Mac Fhlannchadha nearby to Bunratty at Tullyvarraga in 1481.[84] The Meic Fhlannchadha were involved in drawing up deeds for other learned families, such as in 1548 when they produced deeds for the Uí Mhaoilchonaire historian-chroniclers of Ardkyle.[85] Not all of their professional writings were in Irish. Conchobhar Mac Fhlannchadha wrote a deed in Latin for a branch of the Meic Conmara of Cappagh in 1580, but the signatory endorsements were given in Irish.[86]

In common with other brehon families the Meic Fhlannchadha enjoyed high social status. They are first recorded in the Irish annals in 1482 as having attained the position *ollamh féineachais* ('professor of law'), although they appear in the so-called 'Rental of O'Brien' (*Suim Cíosa Ua Briain)* earlier in the fifteenth century.[87] In the sixteenth century they were credited with building five towerhouses in *Tradraighe*,[88] and it was claimed that a branch near Ennis fostered the young Donough O'Brien, fourth earl of Thomond (d.1624).[89] Other professional families are also recorded among the translated deeds copied by Twigge. These include the Uí Mhaoilchonaire chroniclers, Clann Chraith poets and Uí Iceadha physicians. Service families, such as the stewards and bailiffs, also merited a mention in the deeds. The presence of these officials is evidence of hereditary office-bearers involved in the administration of the Meic Conmara lordship. An example here are the Uí Rodáin who first appear as stewards to the Meic Conmara in the late-fourteenth century 'rental', *Suim Tigernais Meic Na Mara*, and were still serving as stewards into the sixteenth century.[90] Other examples include '*muintir Liabhail*' (Lavelle family)[91] who acted as stewards in the parishes of Clonlea and Kilseily.[92] According to Twigge, the original rentals were 'preserved by the stewards

83 Hardiman (ed.), 'Deeds', 50–1. It is feasible that an earlier, anonymous deed, from 1419 regarding land transactions in *Tradraighe*, was also written by a Mac Fhlannchadha brehon. This deed appears in the appendices of this paper under fol. 30.

84 R.W. Twigge, *Materials for a History of Clann Cuilein* (BL Add Ms 39263, fols. 31–32). This deed is incorrectly dated 1251 in James Frost, *The History and Topography of the County of Clare*: *From the Earliest Times to the Beginning of the 18th Century* (Dublin: Sealy, Bryers & Walker, 1893), 182–3.

85 Hardiman (ed.), 'Deeds', 62–4. On the family see Brian Ó Dálaigh, 'The Uí Mhaoilchonaire of Thomond,' *Studia Hibernica* 35 (2008–9), 45–68.

86 Luke McInerney, 'A Meic Fhlannchadha Fosterage Document, c.1580', *North Munster Antiquarian Journal*, 51 (2011), 61–70.

87 *AFM*, *sub annis* 1482, 1483, 1492, 1575 1576, 1598; and see Hardiman (ed.), 'Deeds', 36–43.

88 Seán Ó hÓgáin, *Conntae an Chláir, a triocha agua a tuatha* (Baile Átha Cliath: Oifig an tSoláthair, 1938), 53. Also see RIA Ms 23/H/25, p. 87 and RIA Ms 24 D 10, pp 70–2.

89 Cornelius O'Mollony, *Anatomicum examen, Enchiridii Apologetici, seu Famosi cujusdam libelli, a Thoma Carve (verius Carrano) sacerdote Hiberni furtive publicati, quo Carrani imposturae,& calumniae religiose refutantur* (Prague, 1671), 112–3.

90 Hardiman (ed.), 'Deeds', 43–9, 72.

91 Ibid., 44, 47.

92 Twigge, *Materials for a History of Clann-Cuilein* (BL Add Ms 39262, fol. 25).

of the chieftain', but that later copies, including an interesting late-eighteenth century translation in the Chevalier O'Gorman papers at the British Library, contain corruptions due to 'carelessness of the scribes'.[93]

The deeds are replete with mentions of landholding families and cadet, or second-rank, Meic Conmara branches. In the former category examples include the Meic an Oirchinnigh,[94] Uí Mhiadhacháin, Uí Mhaoildomhnaigh, Uí Mhaoilcaine, Meic Geimheráin, Uí Iomhuir, Meic Glúin, Uí Rodáin and Uí Chearnaigh. Many of these were freeholder-vassals or major tenants under the Meic Conmara. In some cases, even the lowliest class of tenant-cultivator merited a mention. These were the peasantry of Gaelic society and constituted a class of landless cultivators who worked on the mensal estates of the ruling lineages. Almost invisible in late medieval Gaelic sources, these lowly cultivators are called 'churls' in English sources. Among the deeds copied by Twigge, names such as 'Paidin the herdsman' from a sixteenth century deed, remind us of the ubiquitous presence of the Gaelic peasant class and their lowly status.[95]

The question as to the degree of monetisation of the Gaelic economy can at least partly be addressed by the deeds. Many of the deeds refer to the buying and selling of animals or agricultural produce (mainly wheat), and point to a fluid market where landowners advanced credit, and various forms of debt (in land and livestock) were incurred. Fleeting references are found to commercial practices such as the distilling of 'aquavite'[96] in 1458[97] and to prized household goods, such as coloured cloth, hats and brass pans.[98] Debts were paid in money and goods, including items such as mantles and swords. Frequent reference is made to different coinage specie, including shillings, groats, merks, pennies and cross-keale money.[99] It may be gathered that land transactions were undertaken by monetary means, perhaps more frequently than has generally been recognised and not just by barter or another form of simple exchange.

Important aspects of the agricultural economy can be distilled from the deeds. One deed refers to the top-dressing of land with sand, while another refers to the storage of crops and the number of days to plough

93 On Twigge's comments see Ibid., fol. 21. On the eighteenth-century translation see BL Add Ms 20717 ['O'Gorman and Steele Papers, Co. Clare'].

94 On the Meic an Oirchinnigh (McInerheny or McInerney) see Luke McInerney, 'Land and lineage: the McEnerhinys of Ballysallagh in the sixteenth century', *North Munster Antiquarian Journal*, 49 (2009), 7–32.

95 Twigge, *Materials for a History of Clann-Cuilein* (BL Add Ms 39262, fol. 44).

96 From the Latin, *aqua vitae* ('water of life') and from whence the Irish term, *uisce beatha* (*anglicé* 'whiskey').

97 Hardiman (ed.), 'Deeds', 51.

98 Ibid., 50–1

99 On cross-keale money see Michael Dolley & Gearóid Mac Niocaill, 'Some coin-names in ''Ceart Uí Néill'', *Studia Celtica*, 2 (1967), 119–24. I thank Dr Katharine Simms for this reference.

fields. These clearly show the practice of tillage on certain lands in east Clare. The commonly held view that Gaelic regions were pastoral and that practices such as seasonal transhumance were common, ignores the diversity of the Gaelic economy and its mixed agricultural base.[100] Plenty of evidence exists to show the cultivation of cereals and crops in County Clare. In 1586, lands that owed tribute to the Mac Conmara Fionn were assessed by the quantity of oats they could render.[101]

The cultivation of wheat and other cereal grains in the Meic Conmara lordship was praised in poetry, and it appears explicitly in a praise-poem addressed to Seán Mac Conmara, lord of *Clann Chuiléin*, in the 1570s.[102] The Gaelic economy was not entirely dependent on agriculture or pastoralism. Fisheries and trade developed in important settlements along the Shannon and Atlantic coast such as Tromra, Carrigaholt and at Scattery Island. Even the extraction of non-ferrous metals was undertaken in at least two sites in County Clare in the early 1600s. We read in a manuscript from the early 1600s that on the lands of the Uí Lochlainn of Gragans, and the Uí Bhriain of Inchiquin at Kilnaboy, were lead, silver and copper mines.[103] The ownership and mining of precious metal provided specie for trade, and material for smelting. It also provided roofing, with lead extracted from Silvermines in County Tipperary used to roof Bunratty castle in the early seventeenth century.[104]

Other miscellanea may be gleaned from the deeds. A number of deeds refer to specific places where rent and redemption in property was paid and settled. In some cases this coalesced with important residences such as towerhouses. In a deed involving the Uí Allmhuráin (O'Halloran) and Meic Conmara in the parish of Killuran, redemption on lands was to be made at the 'bawn of *Cuil-riabhach*' (Coolreagh).[105] We read in a deed from 1573 that it was signed by the contracting parties on 'the green of *Bunratie*', meaning that it was signed at the manor and castle of Bunratty, the property of the

100 English colonisers from the sixteenth century regarded the seasonal movement of people and herds to the mountain uplands as proof of the 'uncivility' of the Gaelic Irish. See Nicholas P. Canny, *The Elizabethan Conquest of Ireland: A Pattern Established, 1565–76* (New York: Harvester Press, 1976), 15, 160.

101 McInerney, 'West Clann Chuiléin', 57–62.

102 See Luke McInerney, 'A Sixteenth Century Bardic Poem Composed for Seán Mac Conmara, Lord of West *Clann Chuiléin*', *Seanchas Ardmhacha*, 23:1 (2010), 33–56. There are many references to the cultivation of grains, such as in a deed from 1589 which stated that 'McGillyrewgh and his ancestors' (i.e. Meic Giolla Riabhaigh) of Cragbrien, provided the O'Briens of Clonroad with malt and wheat. See Luke McInerney, 'A 1589 deed between McGilleragh and the earl of Thomond for Cragbrien', *The Other Clare*, 40 (2016), 73–82, at 77.

103 Rev. Charles O'Conor, *Bibliotheca Ms. Stowensis a Descriptive Catalogue of the Manuscripts in the Stowe Library*, 1 (Buckingham, 1818), 133.

104 Dermot F. Gleeson, 'The Silver Mines of Ormond', *The Journal of the Royal Society and Antiquaries of Ireland*, 7 (1937), 101–16, at 108.

105 Twigge, *Materials for a history of Clann-Cuilein* (BL Add Ms 39262, fol. 63).

earl of Thomond.[106] At Bunratty the earl of Thomond was paid rent in the 'hall of the mansion house' of the castle, which served both as a place of his seigniorial authority and where he kept a manor court.[107] Signing and attesting deeds at places of authority helped legitimise agreements and probably occurred during an *aonach* or fair, or during other public occasions such as gale days.[108] Endorsement lists and appeals to collective authority such as the 'learned men of *Tuadh-Mumha*', as exhorted in one deed from 1540, was another way of encouraging compliance.[109]

Law & landholding – evidence from the deeds

While outright alienation of divisible property remained limited due to the traditional practice of hereditary land remaining collective property of a kindred, by the sixteenth century fee-simple ownership and other types of possession were increasingly common. This was no doubt due to English feudal concepts of law permeating Gaelic law during this period, if not earlier. A precedent for this was the adoption of Scots (feudal) law by ruling Gaelic lineages in the Scottish Highlands which was used alongside native custom and law. Turning to Ireland, in those areas under Anglo-Irish control, an amalgam of feudal law and Gaelic law developed and was resorted to by tenants and landholders alike.[110] From the fifteenth century Gaelic legal families were practising jurisprudence in Anglo-Irish territories. Meic Fhlannchadha brehons were operating in Kilkenny since at least *c.*1430 when one of their kinsmen was enchartered on lands of the earl of Ormond. The charter described him as *juris peritum* and admitted him to a freehold estate.[111] Another kinsman was involved in writing poems for the Butlers of Cahir in 1561,[112] while the Uí Dhuibhdábhoireann brehons of the Burren were adjudicating legal matters in County Tipperary in the 1580s.[113] From these and other links it is likely that brehons became familiar with feudal law.

The deeds copied by Twigge are instructive in regard to land tenure.

106 Ibid., fol. 69.

107 Ainsworth (ed.), *Inchiquin*, 339.

108 In Kilfenora, Easter Gale was the time to pay rent. See National Library of Ireland, Ms 45,640/1, 'List of freeholders in the parishes of Kylfinora, Kylshannye, Kyllylagh, Clonwye and Kylmanahin', ['Inchiquin Collection'].

109 Hardiman (ed.), 'Deeds', 33–5. The deed appears in the appendices of this paper under fols. 45–6. The date of the deed is per Twigge.

110 D.B Quinn & K.W. Nicholls, 'Ireland in 1534' in T.W. Moody & F.X. Martin (eds.), *A New History of Ireland, Volume III: Early Modern Ireland 1534–1691* (Oxford: Oxford University Press, 1976), 1–38 at 27.

111 Curtis (ed.), *Ormond Deeds*, 49–50.

112 Robin Flower (ed.), *Catalogue of the Irish Manuscripts in the British Museum*, 2 (London: British Museum, 1926), 476.

113 Kenneth Nicholls, 'Gaelic Landownership in Tipperary in the Light of the Surviving Irish deeds', in William Nolan (ed.), *Tipperary: History and Society: Interdisciplinary Essays on the History of an Irish County* (Dublin: Geography Publications, 1985), 92–103, at 101.

Scholarly understanding of Gaelic land ownership has moved on significantly since by P.W. Joyce's views on Gaelic Ireland were first published in 1893.[114] The writings of Gearóid Mac Niocaill. Kenneth Nicholls and others[115] have shown that land could be held in several ways under Gaelic law, and the view that collective family estates were held under immutable customs and static laws ignores the evidence of late medieval Ireland and the diversity of tenurial conditions. It is now recognised that landholding in the late medieval period tended to take the form of fee-simple ownership (*dílse*),[116] contractual tenancy (*gabháltas*),[117] and mortgage or pledge (*geall*).[118] Pledges in land could be redeemed under limited conditions or, if held for an extended period, they reverted to ownership by virtue of incumbent possession.[119] Changes in social structure and new pressures in the sixteenth century further resulted in changes to landholding as Gaelic lords sought to control demesne property and assert their ownership over common lands.

While the deeds contain different redemption conditions they all share a common point. That point is that the redemption conditions of mortgaged and of conveyed land was almost always strictly limited. We see this in a deed from 1502 for Ballyslattry in Tulla which stipulated that no one was eligible to redeem the land except the original possessor of the land itself, or his son or grandson.[120] Limited redemption conditions ensure that the land would not be conveyed out of the control of either family who claimed an interest in it. But the real point of interest in this deed, and a similar deed from 1493,[121] is that a *prima facie* reading suggests that Ballyslattry was the property of the Meic Conmara who pledged it to the Uí Slatra despite the fact that Ballyslattry (*Baile-Uí-Slatra*) was their hereditary land. As Kenneth Nicholls pointed out some years ago, what was probably being pledged here was simply the right to take rent and exactions which previously rested with the Meic Conmara as the overlords;[122] although the wording suggests that food-rent was still paid to the Meic Conmara under

114 P.W. Joyce, *A Social History of Ancient Ireland*, 2 vols (London: Longmans, Green, 1893).

115 See, for example, Gearóid Mac Niocaill, 'A propos du vocabulaire social Irlandais du bas moyen age', *Études Celtiques*, 12 (1970–1), 512–45 and Kenneth Nicholls, 'Some Documents on Irish Law and Custom in the Sixteenth Century', *Analecta Hibernica*, 26 (1970), 105–29.

116 Donnchadh Ó Corráin, 'Nationality and Kingship in Pre-Norman Ireland', *Historical Studies* 11 (1978), 1–35, at 24. The term *dílse* appears in eleventh century church grants and implied absolute land ownership.

117 Kenneth Nicholls, 'Land, Law and Society in Sixteenth Century Ireland', *National University of Ireland, O'Donnell Lecture* (1976), 1–26, at 13.

118 This was a common form of transferring interest in property (although in theory it could still be redeemed), and was similar to the Welsh *prid*. On the Welsh *prid* see Peter Ellis, *Welsh Tribal Law and Custom in the Middle Ages*, 1 (Oxford: The Clarendon press, 1926), 254.

119 Mac Niocaill, 'Land transfer', 45.

120 Twigge, *Materials for a History of Clann-Cuilein* (BL Add Ms 39262, fol. 34).

121 Ibid., fol. 33.

122 Nicholls, 'Land, Law and Society', 20.

unspecified conditions. The Meic Conmara had exercised lordship rights over Ballyslattry since at least the early to mid-fourteenth century when, according to the *Suim Tigernais Meic Na Mara*, it paid 'fourteen ounces yearly'.[123] In a deed from 1542 one condition made on land conveyed to an elderly woman was that it could not be redeemed by anyone except her son, and then only after her death.[124] The condition ensured security of tenure for the elderly woman who apparently retained a life-interest in the property.

Examples of conveying absolute title to non-relatives can be found in sixteenth century deeds. A common term used in deeds to describe this type of conveyed land is *bithdilsi an fearáin* ('fee-simple of the land'), and it had the meaning that all claims and residual rights of the former owner were extinguished, freeing the land from any encumbrance. An example of this is the purchase of land in 1570 by the earl of Thomond from Cumara Mac Conmara, wherein it states that the earl and his heirs would enjoy the '*bithdilse an fearáin co brath*' ('fee-simple of the land for ever').[125] Noticeably there were no disabling constraints or the ability to redeem the land. It was a simple purchase of land, the freehold title of which transferred to the earl upon settlement of the terms.

Other examples may be given such as the agreement made between Uilliam Ó Fearghala and Maccon Mac Conmara in 1573 which transferred property in fee-simple.[126] This agreement included a detailed witness list for the performance of its terms and rather significantly, it was witnessed by members of the Uí Rodáin family who served as bailiffs to the Meic Conmara. Another important witness was Donnchadh mac Domhnaill Ó Tornae (misprint for Ó Cernae),[127] who was styled 'clerk of St Patrick' (*Cleireach Pattruicc*). This suggests that the land was encumbered with the obligation to pay the dues and first fruits of the metropolitan cathedral at Cashel. Similar obligations continued to be levied over freehold land, in the same way that overlords levied tribute ('cess') on land that was subject to their lordship.[128] The monetary obligations of a lordship were not extinguished upon receiving freehold land. Whether or not the lands alienated

123 Hardiman (ed.), 'Deeds', 43–9.

124 Ibid., fol. 48.

125 Twigge, *Materials for a History of Clann-Cuilein* (BL Add Ms 39262, fol. 68). On the original Irish text see Hardiman (ed.), 'Deeds', 32.

126 Twigge, *Materials for a History of Clann-Cuilein* (BL Add Ms 39262, fol. 69).

127 The Uí Chearnaigh were a long-standing coarb family in Cashel and served as collectors of St Patrick's dues. They also had a local presence around Bunratty since the Ratty River is called in Irish *Abhainn Ó gCearnaigh*. See Luke McInerney, *Clerical and learned lineages of Medieval Co. Clare: A survey of the fifteenth-century papal registers* (Dublin: Four Courts Press, 2014), 63.

128 For an example of this see C.W. Russell, 'On the ''Duties upon Irishmen'' in the Kildare Rental Book, as Illustrated by the Mac Rannall Agreement', *Proceedings of the Royal Irish Academy*, 10 (1866–1869), 490–6.

by the Meic Conmara in both of these cases was mensal land is not certain, but the alienation of mensal land was probably easier for overlord families, who viewed their mensal estates as personal and not collective property. Accordingly, it follows that mensal land was freer to grant or gift away, especially to non-kin.

To what extent these changes reflected English common law practices or were simply modifications of Gaelic law, is debatable. But the fact that some Gaelic legal conventions continued into the early seventeenth century like witness lists that included members of learned families, or signatory lists to conveyances which included inheritors under Gaelic law, owed something to the fact that while the law during this period was undergoing a transition, elements of Gaelic practice continued. Quitclaims and other common law instruments for disposing property were often used by Gaelic landholders. Quitclaims in particular may have been favoured because the grantee was entitled only to whatever interest the grantor actually possessed at the time the transference occurred. Its use may have accounted for the Gaelic practice of permitting redemption and hence the possibility that the title was not free and clear, but only that an individual's controlling interest was 'quit' or relinquished. The use of quitclaims meant that the rights of the wider kin-group who may have had a residual interest or an inheritance claim to the land were not entirely disavowed. A quitclaim from 1612 in the hand of Daniel Clanchy, Treasurer of Killaloe, and member of the Meic Fhlannchadha brehon family, appears to support the possibility that quitclaims were used to disguise customary Gaelic land transactions.[129]

By far the more common way to transact land in Gaelic society was through pledge and mortgage. Pledges were an important mechanism to acquire a legal interest in land that might deepen if the pledger experienced financial distress. Conditions for redemption on mortgaged land feature frequently in brehon deeds but they are also recorded in Chancery Pleadings up to the seventeenth century.[130] These methods allowed for alienation to take place, but contained limited conditions to theoretically allow the original possessor to recover, or redeem, the land upon performing certain conditions. According to the deeds copied by Twigge certain times of the year were favoured for redemption. In one deed, redemption was permitted between Mayday (1 May) and the feast of St Brendan (16 May).[131] The limited period allowed for redemption ensured that the property transfer that took place within a legal system

129 Luke McInerney, 'Six Deeds from Early Seventeenth Century Thomond', *Eolas: The Journal of the American Society of Irish Medieval Studies*, 10 (2017), 33–76, at 52–6.

130 See the contract between Sir Roger O Shaughnessy of Gort and Sir John McNamara of Mountallon in 1627, which allowed for redemption of mortgaged lands in: National Archives of Ireland, *Chancery Bills: Survivals from pre-1922 collection*, No.6.

131 Twigge, *Materials for History of Clann-Cuilein* (BL Add Ms 39262, fol. 48).

which gave precedence to the collective inheritance of kin-groups, was usually permanent. Despite having covenants in place that theoretically allowed redemption of disposed property, the reality was usually different. As Gaelic law provided for title inheritance among a patrilineal group or *dearbhfhine*,[132] it theoretically meant that alienation of property was generally disallowed. Exceptionally, it might be allowed in circumstances where the consent of all the eligible kinsmen was obtained. However, limited redemption helped to circumvent the practical difficulties of alienating land. Despite having covenants which stipulated that descendants of the original owner could redeem the pledged land, limited redemption conditions normally militated against actual redemption and allowed the land to become, *de facto*, the property of the possessor.

Our understanding concerning the application of Gaelic law has been enhanced by commentary on the surviving Irish deeds. In particular, Gearóid Mac Niocaill and Kenneth Nicholls have highlighted the workings of late medieval law in the counties of Clare and Tipperary.[133] Evidence from County Clare shows that customary divisions occurred on the death of a head of a lineage, and that the lands of Clann Mhathghamhna in Corkavaskin were subject to periodic redistribution each May.[134] The inheritance of political, social and territorial power was governed by 'gavelkind' or partible inheritance, regulated under Gaelic law during this period. The system was described by lawyer Sir John Davis in the beginning of the seventeenth century, before it was abolished by the English Courts in 1606[135]:

> By the Irish custom of gavelkind, the inferior tenanties were partible among all the males of the sept, both bastard and legitimate: and, after partition made, if any one of the sept had died, his portion was not divided among his sonnes, but the Chief of the sept made a new partition of all the lands belonging to that sept, and gave every one his part, according to his antiquity.[136]

132 The *dearbhfhine* was a patrilineal group defined in the early Irish law tracts. It refers to all the patrilineal descendants over a four-generation group who shared a common great-grandfather. It was an institution of property inheritance, with property redistributed on the death of a member to those remaining members of the *dearbhfhine*. An equivalent of the *dearbhfhine* was the landholding unit known as *gwely* in medieval Wales. The *gwely* was formed of males who shared a great-grandfather, and that land held jointly was partitioned and re-partitioned by the sons, grandsons and great-grandsons of the common ancestor. See Ellis, *Welsh Tribal Law*, 225.

133 See Gearóid Mac Niocaill, 'Land Transfer in Sixteenth Century Thomond: The Case of Domhnall Óg Ó Cearnaigh', *North Munster Antiquarian Journal*, 17 (1975), 43–5; and Kenneth Nicholls, 'Gaelic Landownership in Tipperary in the Light of the Surviving Irish Deeds', in William Nolan (ed.), *Tipperary: History and Society: Interdisciplinary Essays on the History of an Irish County* (Dublin: Geography Publications, 1985), 92–103.

134 Mac Niocaill, 'Seven Irish Documents', 49.

135 Edmund Curtis & R.B. McDowell (ed.), *Irish Historical Documents 1172–1922* (London: Methuen, 1943), 126–8.

136 Cited in Ellis, *Welsh Tribal Law*, 270.

Its operation depended to a large extent on family circumstance and local custom. A sixteenth century Chancery Pleading reveals that brehon families such as the Meic Fhlannchadha practised partible inheritance[137] and the custom (albeit in modified form) continued among the Cahermacnaughten branch of the Uí Dhuibhdábhoireann brehons until 1675.[138] Brehon families, like other members of the learned class, functioned as family or 'corporate entities' and their lands were collective property within the leading branch of the kindred. This meant that professional duties and training was organised by, and within, the wider lineage group. The deeds copied by Twigge suggest that lesser families also favoured divisions of inherited family land. A deed from 1542 stipulated the conditions of partition on the hereditary estate of two Mac Gluin brothers at *Baile-mic-Gluin* in Quin parish. The deed instructed that their land be divided to make an 'equal partition between them of all other lands which they [jointly] inherit henceforth'.[139] Whether this partition was made on account of customary division, or as an attempt to resolve contested claims over family land is unclear, but both are possible.

Pressure from the expansion of powerful lineages was a factor behind the division of hereditary estates. According to the seventeenth century antiquary, Dubhaltach Mac Fhirbhisigh, the process of 'emplacement' whereby declining septs were squeezed out and replaced by expanding ones was a phenomenon observed in the late medieval period.[140] Other pressures, including the dislocation of freeholders due to war, strife, factionalism and debts, contributed to the divisions of estates. But probably more significant is that overlord families consolidated their mensal lands and attracted their former freeholders as tenants. Overlord families sought to wield greater political authority over kin and putative freeholder-vassals. Obligations for rent and levies imposed by overlord families and the trend toward consolidated lordship, whereby the dominant family tried to absorb all of the subject territory and make it demesne land, reduced the independence of freeholders and complicated the operation of land law.[141]

The deeds copied by Twigge add to a growing body of material concerning the operation of Gaelic law in the late medieval period. What can be distilled is that Gaelic law upheld a patrilineal type of succession whereby certain male heirs were eligible to hold a part-share in the hereditary lands of the family. How these lands were distributed depended on local custom

137 National Archives of Ireland, *Chancery Bills: Survivals from pre-1922 Collection*, J [undated chancery bills] No. 55.

138 Brian Ó Cuív, 'A seventeenth century legal document', *Celtica*, 5 (1960), 177–85.

139 Twigge, *Materials for a History of Clann-Cuilein* (BL Add Ms 39262, fol. 49).

140 Cited in G.A Hayes-McCoy, *Scots Mercenary Forces in Ireland, 1565–1603* (Dublin: Edmund Burke reprint: 1996), 52.

141 Colm Lennon, *Sixteenth-Century Ireland: The Incomplete Conquest* (Dublin: Gill & Macmillan, 1994), 50–7.

and region, but in one law case in County Clare a legal maxim was invoked which suggested that seniority counted when it came to land redistribution.[142] One deed from 1576 alludes to the legal maxim and its provision under Irish law — *rannaid ósar, do goa sinnser* ('the junior divides, the senior chooses').[143] This led to a form of primogeniture which gave the children of a deceased elder brother preference in partitions over their senior, but cadet, uncles. In these divisions a method was used to ensure an impartial distribution of fertile and infertile land and to help guarantee that the shares of land were of equal value. According to Kenneth Nicholls, redistribution of sept-lands in Connacht and Thomond often took place on Mayday every year, but these patterns were by no means uniform elsewhere.[144] Other evidence points to redistribution occurring on the death of a co-heir in Thomond, but it appears to occur rarely, if at all, in other regions.[145]

In this system several male heirs could claim part of the collective lands which might, on their own decease, descend in portions to their own heirs. Individual alienation of land was difficult (but permissible) because it usually required the consent of the wider family whose members may have had a claim to the land. An illustration such difficulties are the lands transferred by Clann Uí Mhaoil Domhnaigh (O'Moloneys) of 'Gleanomalun' in Killaloe parish, to the earl of Thomond in 1606.[146] The agreement was ratified by three of their kinsmen who claimed to represent the rightful co-heirs of the family estate. This was challenged some thirty years later when Sir Dermot O Mallun[147] petitioned Sir Barnaby O'Brien to purchase the land that his three kinsmen conveyed decades before, arguing that it was transferred to the earl 'without my consent as chief and supreme of their sept in Gleanomalun'.[148] In this case proprietorship lay in the collective title among the eligible co-heirs and the omission of one co-heir apparently invalidated it under Irish law. In another example from County Clare, the property of the Uí Mhaoilchonaire family of Ardkyle and the Meic Fhlannchadha brehon family, was alienated to Conchobhar Ó Briain in 1614.[149] In this case outright ownership occurred because all parties with

142 Mac Niocaill, 'Seven Irish Documents', 49.

143 Ibid.

144 Kenneth Nicholls, 'Gaelic society and economy in the high middles ages', in Art Cosgrove (ed.), *A New History of Ireland, Volume II: Medieval Ireland 1169–1534* (Oxford: Oxford University Press, 1987), 397–438 at 432. Nicholls cites a Chancery Answer from 1624 concerning William Oge O Kelly which stated that lands he and his kinsmen held in County Galway were 'divided amongst them but from Mayday to Mayday during pleasure'. See K.W. Nicholls, 'Some Documents on Irish Law and Custom in the Sixteenth Century', *Analecta Hibernica*, 26 (1970), 103–29, at 106.

145 O'Dowd, 'Gaelic Economy', 127.

146 McInerney, 'Documents', 27–33 & 39–44.

147 i.e. Diarmuid Ó Maol Domhnaigh, Baron of Gleanomalun and Cuerchy.

148 McInerney, 'Documents', 39.

149 Luke McInerney, 'An Early-Seventeenth-Century Deed of Conveyance from Co. Clare', *North Munster Antiquarian Journal*, 54 (2014), 73–80

any interest in the land – including two married couples who may have had a dowry interest in the lands – consented to the alienation, and its title was transferred without encumbrance to the new owner.

The deeds copied by Twigge were originally written by brehons who were trained members of the professional legal families. As such, the deeds themselves represent just one aspect of their professional duties: that is, to record, notarise and promulgate legal agreements. On account of the preservation of these deeds and contracts, it is this singular aspect of their duties which have been preserved in such an unmitigated form. Relatively little is known about their other duties which included operating law schools, storing legal documents and proffering advice and counsel to their overlords and patrons.

The following transcription of Twigge's deeds is offered here for two reasons. The first reason is so that readers may glean an understanding of late medieval Irish land law from a corpus of legal material relating to one Gaelic lordship, namely the Meic Conmara lordship of *Clann Chuiléin*. The second reason concerns R.W. Twigge himself. His death left a chasm in local Clare scholarship and the publication of these deeds, a century after Twigge's death, is offered as a *memento* to his indefatigable labours in the field of local Irish history.

Appendix: full transcription

Materials for a History of Clann-Cuilein (the eastern division of county Clare), by Robert William Twigge, F.S.A [British Library, Add Ms 39262, vol. II]

[f.19] Deeds & Charters to 1600
(to follow Topography)
fo. 41–30pp.

[f.20] Deeds & Charters, etc.

The Rental of Mac Conmara[1]

[f.21]

The Rental of Mac Conmara, levied during the chieftainship of Maccon, 1379–1397

The following translation of the Rental of Maccon, chief of Clann-Cuilein 1379–1397, is made from the Irish text given by James Hardiman in the Transactions of the Royal Irish Academy, vol. xv. (1826); from the Irish MS. 23 N.12. pp 174–6 in the R.I.Ac., which was transcribed about the year 1760 by Michael son of Peter Ua Longain; and from a translation made in the 18th century (Brit. Mus. Add MS. 20717).

The original texts were undoubtedly official documents preserved by the stewards of the chieftain, but in these later copies some corruptions have crept in owing to the carelessness of the scribes.

A few explanatory notes identifying the places named, and some words within brackets, may help to explain the text.

An Abstract of [the rental of] the Lordship of Mac Conmara

This is the sum of the Lordship of Mac Conmara, to wit, of Maccon son of Cumhedha, son of Maccon, son of Lochlainn, son of Cumhedha the Great – according to the testimony of his stewards of the Rodain family, and of the Marshal of the country, and according to the Wills of his father

1 Oct. 1910.

and grandfather[2] – out of the *Tuath mór*:[3] and the stewards of the same are Pilip Ua Rodain and Conchobhar Ua Rodain, the descendants of the Red Steward.

[f.22]

This is the first division of the same,[4] viz:

Fourteen ounces [of silver] to Mac Conmara from the Rath, and to his servants [i.e. Official Receivers] exclusive of royalties.[5]

An ounce of gold to the Lady [i.e. Mac Conmara's consort] in Cluain-mhuine,[6] exclusive of the Lord's rights.

Three ounces yearly of the Lady's rent in the quarter of Blodh na gCeall[7] and in Baile-ui-Ceallachain,[8] exclusive of the Lord's rights.

Thirteen ounces of the Lady's rent in the quarter of Druim-iothlann,[9] exclusive of the Lord's rights.

Fourteen ounces of the Lady's rent in the quarter of Dúra,[10] exclusive of the Lord's rights.

Fourteen ounces of the Lady's rent in the eastern moiety of the vill of Tamhnach,[11] exclusive of the Lord's rights.

A half-mark in Baile-ui-Reubhachain.[12]

2 Maccon his grandfather was the first chief of Uí-gCaisin who imposed tribute on the conquered territories subjected to his rule after the war of 1318, and consequent expulsion of the Anglo-Normans and their native allies – the Ui-mBloid and other clans. The date given for this rent's imposition, is 1330, according to the second authority quoted above.

3 *Tuath mór* here means the entire territory of Clann-Cuilein after the said war. The term *tuath* is both geographical and genealogical, and in the former sense is applied to the people occupying a district which had a complete political and legal administration, a chief or king, and a military force of at least 700 warriors. Three or more *tuatha* associated together, whose troops were united under one commander, formed a *tuath mór*, or great district. [O'Curry, 'Manners and Customs of the Ancient Irish', 1873, vol.1. p. LXXIX of Sullivan's Introduction].

4 i.e. the *Tuath* of Ui-gCaisin: the original territory of clan Mac Conmara.

5 *an sa Rath* – the text here seems corrupt. Perhaps Rath was taxed for the chief's household.

6 Now the townland of Cloonmoney in the parish of Inchicronan.

7 Not identified (the quarter of portion of the churches).

8 Misspelt '*Ceiliochair*': *Baile uí Ceallachain* is an old townland name in Templemaley.

9 Misspelt '*Drom-diothclann*': now Drumullan in Tulla.

10 Dúra is probably the old *baile* named Dúire in the parish of Doora, or possibly it may be the *Der-magh* in Inchicronan.

11 Now Toonagh in the parish of Clooney.

12 Now Ballyroughan in the parish of Quin.

Fourteen ounces of Lord's rent in Baile-na-g-coilleain,[13] exclusive of the Lord's rights.

Fourteen ounces yearly in the moiety of the vill of Ua Slatra,[14] exclusive of royalties.

Fourteen ounces in the moiety of the vill of Ua Maoilin[15] exclusive of royalties.

Fourteen ounces yearly of the Lord's dues in the moiety of the vill of Ros Carthaigh,[16] exclusive of royalties.

[f.23]

Fourteen ounces in the quarter of Gleann-drith.[17]

Fourteen ounces of Lord's rent in Feartan-beg.[18]

Fourteen ounces in the quarter of Lios Midheachain,[19] in the quarter of Craobhach,[20] and in the quarter of Baile-ui-Brian,[21] exclusive of royalties.

Fourteen ounces yearly in the three half-quarters of Baile-ui-Ceallaigh.[22]

Fourteen ounces yearly in the moiety of the vill of Ua Dubhthartaigh.[23]

Fourteen ounces in the moiety of the vill of Lios-coilleáin.[24]

Fourteen ounces yearly in the five half-quarters of Ui-mBloid.[25]

Fourteen ounces in the moiety of the vill of Ros-ruadh:[26] and

13 Probably the townland in Quin now called Cullaun.
14 Now Newgrove in Tulla parish.
15 Now Milltown in Tulla – a name incorrectly anglicised.
16 Now Craggaunkeel in Tulla, 'alias Roscarhy' in a deed of 1770.
17 Now Glendree in the parish of Tulla.
18 Now Fortanne in the parish of Tulla.
19 Now Lismeehan, or Maryfort, in Tulla parish.
20 Misspelt 'Carobhach', now Creevagh in the parish of Quin.
21 The old name of a townland in Tulla.
22 Probably in Tulla parish but cannot now be identified.
23 *Leath-baile-ui-Dubhthartaigh* probably also in Tulla, but not identified.
24 Now Liscullaun in the parish of Tulla.
25 The townlands of Ballyblood and Lecarrow in Tulla.
26 Now Rosroe in the parish of Kilmurry-na-Gall.

Mac Conmara has refection in the free-lands of that district.[27] He has moreover fourteen ounces in the quarter of Tamhnach beg.[28]

[f.24]

This is the Lordship of Mac Conmara over Tuath-na-h-Abhann,[29] viz:

Fourteen ounces in Ceapach.

Fourteen ounces in Baile-ui-Fearghaille.

Fourteen ounces in Baile-ui-Naomhain.

Fourteen ounces in Baile-ui-Oisin.

And refection once a year in the free-lands of that district.

The descendants of Mathghamhan finn Ua Rodain are the stewards who collect the said rents [yearly].

This is the Lordship of Mac Conmara yearly in Tuath-ui-Flainn,[30] viz:

Fourteen ounces in the three half-quarters of the clan Iosóg, i.e. the Cuallach and Baile-na-g-cliath,[31] and Drium-Soighle.[32]

Fourteen ounces in the three half-quarters of Inis-Snaite,[33] exclusive of royalties.

27 'Refection in the free-lands' was a privilege claimed by the Chief to be entertained for one meal once a year. This claim is to be distinguished from 'coshery', which was an exaction consisting of lodging and provision for himself and retinue, imposed by a chieftain on his tenants at their own expense.

28 Perhaps the Lord's rent from Toonagh (see note and text above). It will be seen that all the above mentioned lands liable to tribute are in Uí-gCaisin.

29 The 'District of the River' was the territory of Uí-gCearnaigh, co-extensive with the parish of Kilfinaghta and a small part of Kilfintanan. Baile-ui-Fearghaille, now Mount Ivers, is partly in the latter parish: Cappagh, Ballynevan and Ballysheen – the modern names of the three other vills – are in Kilfinaghta.

30 The territory of Ui-Flainn was co-extensive with the parishes of Clonlea and Kilseily, and that portion of Killaloe named *Triuch* which now is annexed to O'Brien's-Bridge.

31 Misspelt *Baile-na-nglias*. It is now called Hurdlestown.

32 Misspelt *Druim Soithle*, but is no doubt named after Sile, or Soighle, the founder of the church, and is possibly the modern Drumsillagh.

33 More correctly *Inis Snaighte*, now called Snaty. These townlands, with Coolagh the property of the MacCusack clan, are in Kilseily.

Fourteen ounces in Aenach-Murchadha-bric.[34]

Fourteen ounces in the three half-quarters of the clan Sioda, exclusive of royalties.

Fourteen ounces in the moiety of the vill of posterity of Donnchadh Mac Iosóg.

[f.25]

Fourteen ounces in the three half-quarters of Madhum-talmhuin,[35] exclusive of royalties.

Fourteen ounces in the moiety of the vill of Tir-ui-h-Aedha,[36] exclusive of the Lord's royalties.

An ounce of gold for the Lady's dues in the half-quarter of Gort-ui-gConghaile.[37]

A groat and seven ounces to Mac Conmara in Baile-ui-Muireagain.[38]

Refection once a year in the free-lands of that district.

The family Liabhuil are the stewards of that district.

This is the Lordship of Mac Conmara in Tuath-an-gleanna,[39] viz:
Fourteen ounces in the moiety of the vill of the Red Earl.[40]

Fourteen ounces in Baile-Cuinn.[41]

Fourteen ounces in Baile-ui-Maoil-Domnaigh,[42] and the liability of two-thirds [of the amount] from the said two places is laid

34 'The market of Murchadh *breac*' is now Killaneena in Clonlea parish. The lands of Clan Sioda and Donnchadh Mac Iosóg were probably in Kilseily, judging from the names of owners in that parish in 1641.
35 Now Mountallon in the parish of Clonlea.
36 Now Teeronea in the parish of Clonlea.
37 Now Gortnagonnella in the parish of Kilseily.
38 Perhaps the three townlands now called Ballyvorgal in Clonlea.
39 'The district of the valley' is Gleann-omra, co-extensive with the parish of Killokennedy and part of Kilseily.
40 Not identified. There is a vill in O'Brien's-Bridge called Cnoc-an-iarla.
41 Now Ballyquin in the parish of Killokennedy.
42 Now Bally-Moloney in the parish of Killokennedy.

upon the quarter of Achadh-raighneach-beg.[43]

Fourteen ounces in the moiety of the vill of Cúm.[44]

Fourteen ounces in the quarter of Cluain-ui-Conaire.[45]

[f.26]

Fourteen ounces in the quarters of For-mael.[46]

Fourteen ounces in the quarter of Cluain-tragha.[47]

Fourteen ounces in Ard-sceithe.[48]

Fourteen ounces in the quarter of Cluain-Gaithinn.[49]

Refection once a year in the free-lands of that district.

This is the Lordship of Mac Conmara in Tuath-Ui-gConghaile,[50] viz:

Fourteen ounces Beal-coille.

Fourteen ounces in the quarter of Baile-ui-Bruachain.

Fourteen ounces in the quarter of Baile-ui-Lachtnain.

Fourteen ounces in the quarter of Baile-ui-Thithfe.

Fourteen ounces in the quarter of Baile-ui-Brain.

Fourteen ounces in Ceathramhadh-corr and Ceathramhadh-gearr.

Fourteen ounces in Ceathramhadh-ui-Eidhne.

Fourteen ounces in the quarter of Baile-na-gcleireach.

43 Misspelt 'Droighneach-beg': the above townland is in Killokennedy.
44 Cúm is [...]
45 Now Cloonconry (and mór and bég) in the parish of Killokennedy.
46 Now Formoyle in the parish of Killokennedy.
47 Now Cloontra in the parish of Kilseily.
48 Now Ardskeagh in the parish of Kilseily.
49 Now Cloongaheen in the parish of Killokennedy.
50 Tuath-ui-gConghaile is coextensive with the parish called after it, Ogonnelloe. The places mentioned in this district are easily identified by their modern names, which are Bealkelly, Ballybroghan, Ballylaghnan, Ballyheefy, Ballybran, Carrowcore, Carrowgare, Carrowena, Ballynagleragh, Raheen (mor and beg), Island Cosgry, Ballyhurly and Aughnish.

Refection between Christmas and Shrove-tide in the two [quarters of] Rath-aenaigh, and in Oilean-ui-Cosgaraigh, and in Baile-ui-Urthuile, and in the quarter of Each-inis. Moreover Refection once a year in the free-lands of the above district. The Ua Rodain family are stewards of that territory.

[f.27]

This is the Lordship of Mac Conmara in Tuath-ui-Ronghaile,[51] viz:

Fourteen ounces in the moiety of the vill of Upper Clochar.

Fourteen ounces in the moiety of the vill of Lower Clochar,[52] and the quarter of Cluain-Cuil.[53]

Fourteen ounces in Cluain-mothair.

Fourteen ounces in Cuil-ui-Riada.[54]

Fourteen ounces in Druim-fhad[55]

Fourteen ounces in Druim-sgamhuir[56]

Fourteen ounces in Cathair Urthuile[57] of the clan Ui-hAisneisis.

Fourteen ounces in the moiety of the vill of Upper Ros.

Mac Conmara has Refection between Christmas and Shrove-tide in the three quarters of the three Cuil-Riabhach,[58] in Baile-meic-Domhnaill,[59] in Cell-iubhrain,[60] and in Baile-Miccon-fhinn[61] and Refection once a year in the free-lands of that district.

[f.28]

This is the Lordship of Mac Conmara in Tuath-Echtge,[62] viz:

51 Tuath-ui-Ronghaile was co-extensive with the parishes of Killuran and Kilnoe, and included also the vill of Ros now in Feakle parish.
52 Upper and Lower Clochar now form the two quarters of Clogher in Kilnoe.
53 Now Clooncool in the parish of Killuran.
54 Now Cloonmoher and Coolready in the parish of Kilnoe.
55 Misspelt 'Dromairt', now Drummod in Kilnoe.
56 Druim-sgamhuir is perhaps the townland called Drumscale in the Cromwellian Survey in Kilnoe parish.
57 Now Caherhurly in Kilnoe.
58 Now Coolreagh, C.mór and C.beg in Kilnoe.
59 Now Ballymacdonnell in the parish of Killuran.
60 *Cell-iubhrain* here means the townland of that name, and not the whole parish.
61 *Baile-Miccon-fhinn* is not identified ~~though probably in the same parish~~.
62 Misspelt *Tuath Eachaoi*. Tuath Echtge was co-extensive with the parish of Feakle, excepting

Fourteen ounces in Aenach.

Fourteen ounces in Bun-na-g-coilleain [or -cuilinn].[63]

Fourteen ounces in Raithneachan.[64]

One ounce of gold of the Lady's rent in Fiacail.

Fourteen ounces in the three quarters of Cuil-ui-gComhruidhe.[65]

Fourteen ounces in the Cor-Cluana.

Fourteen ounces in Liath-gort.

Fourteen ounces in Gort-ui-Duinn.

Fourteen ounces in Aenach.

Fourteen ounces in the quarter of Cnoc-beithe.

Fourteen ounces in Faithche Ui-hAllmhurain.

The Ua Rodain family are stewards in the territory of Tuath-Echtge.

Moreover Mac Conmara has Refection between Shrove-tide and Easter in Cell-da-Lua and in Aenach mór.[66]

The age of the Lord when Mac Conmara [first] levied the foregoing Rent was 1330.[67]

Ros, and with the townland of Coolagory now in the parish of Tomgraney in addition. The two townlands of Aenach were probably *Cnoc-an-aenaigh* and *Cell-an-aenaigh*.

63 Not identified.

64 Now Ranaghan in Feakle.

65 Now Coolagory in Tomgraney. The remaining lands known by their modern names Corracloon (*beg* and *mór*), Leaghort, Gortidune, Knockbeha, and Fahy are all in the parish of Feakle.

66 Aenach mór is Aenach-ui-Flainn in the parish of Clonlea.

67 The total annual rental of the Lord was therefore 848^{oz} of silver, half a mark and one groat, besides Royalties, etc.: and his wife's rental was 3^{oz} of gold and 44^{oz} of silver.

[f.29]

Medieval Charters, Deeds and Decrees

The few surviving examples of the Charters, Deeds and Decrees, drawn according to the practice of the native laws administered by the Brehons, and relating to lands in Clann-Chuilein and persons living within that territory, have been gathered together from various sources.

They afford interesting examples of the mortgages, charges, and judgments extant from the XIV to the XVII centuries, during which period the old laws contained in the *Fenechas* or ancient code, were in force throughout the country, before English law was unjustly and tyrannically imposed, during the reign of James I, on an independent people without their consent, who were reluctant to receive it, and for many years failed to comprehend the radical changes that were thereby effected in the tenure of land and the customs of the country by its imposition.

In most cases unfortunately only later copies of the original documents are extant, and these examples are often copies of copies. Hence one finds in them a debased orthography, proper names modernized, and often the omission of whole sentences where the original vellum had become worn or undecipherable.

The following translations of the deeds, originally made by Hardiman, Todd, and O'Curry, were carefully revised in 1902 by the kind assistance of the Rev. P. Dineen and other experts. Consequently the text given differs in detail from the versions printed in the Transactions and Proceedings of the Royal Irish Academy, and elsewhere.

[f.30]

Abstracts made at Limerick in 1611, from the original Irish Deeds relating to the following four estates.

~~Old abstracts from the original Irish Deeds, made at Limerick the 19th Feb. 1611.~~

∞

A mortgage of the quartermire of Cragaunesh...Cownagh purchased by David O'Ferala for 20 cows, viz. 15 incalf cows, 7 gawnaghes [=strippers]...5 cow-calfes, 2 bull-calves, 8 yearlings, the value of 20 cows in money delivered uppon all holland day [=All Hallows, 1 Nov.]. More delivered by the said David upon the Carrowmire of Curragh-mobrony in Cownagh, 18 merks cross-keale money [=groats stamped with the Papal tiara], with a penny addition in everie grote; five milch cows,with five cow-calves, 10 heiffers, and seven agawnaghes. This mortgage was delivered on Monday in Whitson week, anno 1419.

∞

The carrowmire of Tarpane in Curcagh, purchased in fee simple by David for 35 merks and 9 pence of cross-keale money, with a penny in addition to every grote thereof, 17 yards of broad cloth, a hatt and a horss, valued to be worth 20 agawnaghs. Written anno 1440 by Conor Cleanchy—Notarius publicus.

The mortgage of said David upon Partinglass in Cownagh, viz. 9 stood mares and 3 foales and 4 colts whereof one was a fair horss colt, 4 yeards of scarlett or stained cloath, and 6 yeards of grey cloath.

The said David's mortgage upon the quartermire of Lissengoyre, viz. 6 mercks cross-keale money, 1 gilt cupp for 9 mercks, and 4 garrons and an ambling wagg in lieu of 5 merks . This deed was written in anno 1453.

The fee simple of Craigimoyle in Cownagh purchased by the said David for a great pan that could boyle 3 beaves and 2 hoggs at once, 14 mercks of cross-keale money, 9 milch-cowes with 5 cow-calves, 4 bull calves, 3 stood mares and 2 garrons. Alsoe the fee simple of the quartermire of Carren purchased by the said David for 30 mercks cross-keale money with a penny addition to every grote thereof, one aquavite distiller called Corkan, and a great brass pan. This deed was written by Conor Clanchy in anno 1458.[68]

[f.31]
In the name of God

This is the Agreement made by Diarmaid and Seán óg the sons of Seán son of Dabhidh Cregan relating to a mortgage they have from the heirs of Donnchadh Mac Evoy.

Whereby they assign to Seán son of Aedh [Mac Conmara] and his heirs their right of pasturage of 13 milch cows on the lands of *Lecan* and on half the lands of *Corc an clui* together with the commonage and other appurtenances of such domain.

And the said Seán son of Aedh gave to the said Diarmaid Cregan one sow

68 No. xvii in Trans. R.I.Acad. vol. XV. The lands above mentioned lie along the north bank of the Shannon and within the North Liberties of Limerick.

on condition of being put in peaceable possession of the said lands. Nor shall it be in the power of the said Diarmaid or any person on his behalf to redeem the said lands without the consent of the said Seán, and such redemption shall be on the feast of St John Baptist in any one year after the first year.

The said Diarmaid doth hereby also assign to the said Seán his title to *Lis-brec* and one half of *Oilean na ngabhne* (Smiths' Island) at whatever date he shall redeem this mortgage, nor shall any other person have power to mortgage these lands for any other sum.

The witnesses to this contract are God in the first place, Conchubhar Ua Neillan, Conn son of Seán, Donnchadh son of Tadhg son of Seán, Ruan son of Tadhg son of Seán, and Conchubhar Mac Flannchadha.

Moreover the said Seán son of Aedh having paid 20 ounces of refined gold unto Muirchertach Consadin to release the mortgage on the inheritance of Seán óg [Cregan] in the lands of *Tulach-mhargaid* to wit – three months' licence of tillage per annum in the part named *Tulach porein* and the like for a day and a half in *Corlecan*; half the lea ground of *Oilean na ngabhne* with two-thirds of its pasturage; liberty to build a house with rights to bog and commonage etc.

It shall not be in the power of any person to redeem the said lands [and rights] from Seán son of Aedh save Seán óg himself. Payment thereof to be made in coined silver or dry stock, and the said Seán son of Aedh shall possess all the said lands for an entire year after such payment. The said lands shall pay two groats royalty to the King and a reserved rent of one ounce of refined gold and two pence to Seán óg and two groats to Diarmaid his [f.32] brother in addition to an ounce of refined gold given him for joining in this agreement. Moreover the said Seán son of Aedh has another lien on the said lands viz. for one brindled stripper which he gave last Christmas for getting possession of the premises.

The witnesses are God in the first place, Conchubhar Neillan, Conn son of Seán, Donnchadh and Seán the two sons of Tadhg son of Seán son of Mathghamhan, and Conchobhar Mac Flannchadha.

I, Tomas Mac Flannchadh of *Cluain-mic-Diarmada* wrote this conveyance at *Tulach-mhargaid* on the eve of St. Martin in the year of Our Lord 1351 (?) 1481.[69]

[f.33]

This is the agreement and covenant of the descendants of the son of Seán [Mac Conmara] with the Slatra family – to wit:

Tadhg óg son of Tadhg son of Cumhedha, and Tadhg son of Lochlainn son of Seán, and Sadb daughter of Tadhg son of Donnchadh, and Diarmaid son of Lochlainn shall write and sign a deed addressed to the Slatra family assigning *Baile-ui-Slatra* to the family of Slatra who are now therein viz. to Domhnall son of Donnchadh son of Domhnall son of Diarmaid Ua Slatra, and Lochlainn *ruadh* son of Domhnall son of Domhnall son of Lochlainn Ua Slatra. Moreover it shall be binding on the descendants of the son of Seán to give their warrant deed and signature to the Slatra family that they will go into court and to council to defend their territory and their pledges in *Baile-ui-Slatra*.

And there shall be paid to the descendants of the son of Seán by the Slatra family the sum of twenty shillings at the present time, and two ounces yearly for two years from this date.

And the Slatra family are hereby bound to honour the descendants of the son of Seán with suitable food and raiment according to their ability.

And the descendants of the son of Seán are hereby bound to be compassionate to the Slatra family.

And if both parties shall preserve the *baile* from those dealing unjustly towards them, then after two or three years from this time the treatment of the sept of the son of Seán by the Slatra family shall be as regulated by Tadhg Mac Flannchadha, and Mathghamhan son of Seán son of Donnchadh, and Ruadhri Ua h-Icedha from thenceforth.

69 This deed of conveyance of a mortgage on lands in the parishes of Dromline and Bunratty was copied from the original deed then in possession of Nicholas MacInerhiny, by S. O'Halloran who printed it in his *History of Ireland*, 1803, vol. 1, p. 211 where he gives its date as 1251 which is clearly erroneous. According to Hardiman it is a deed of the XIV century and if so the date may have been either 1351 or 1381 – probably the latter, but it is more likely to be a hundred years later. A mutilated copy is given in James Frost's, *History of Clare* (1893), 182 who states that *Lecan* is now called *Corlac* and *Corca-an-clui* is part of the townland of *Cluain-mhuine*. As *Lecan* and *Corlecan* both appear in the deed it is evident that the former does not equate with *Corlac*. It may have been a sub-division of that townland.

Anno Domini 1493 misi:

Diarmaid son of Lochlainn
Tadhg son of Lochlainn
Sadb daughter of Tadhg son of Donnchadh

The witnesses are Tadhg Mac Flannchadha, and Ruadhri Ua h-Icedha and Mathghamhan son of Seán son of Donnchadh [Mac Conmara] and the parties thereto themselves viz. the descendants of the son of Seán [whose signatures are above] and for the Slatra family – Domhnall Ua Slatra, Lochlainn Ua Slatra, and Tadhg Ua Slatra.[70]

[f.34]

1502

This is the deed of indenture made between Domhnall son of Seán son of Maccon (Mac Conmara) and Domhnall son of Lochlainn (son of Tadhg?) Ua Slatra – to wit:

Domhnall Ua Slatra has given a loan to Domhnall and his brothers the sons of Seán, upon the [security of the] portion of *Baile-ui-Slatra* belonging to Domhnall son of Seán, whose share is three parts of the half quarter of the Great marshland (*riasga moir*) and two parts of the half quarter of the Hills (*na chnoc*). And the amount of the mortgage given by Domhnall Ua Slatra to Domhnall son of Seán is seven marks and half a mark and fifteen in-calf cows and a bay-steed valued at an ounce. And Domhnall Ua Slatra and Domhnall son of Seán hereby covenant with each other that no person whatsoever is competent to redeem this land from Domhnall Ua Slatra save Domhnall son of Seán, or his son, or his son's son. And it was on the green of *Cill-inach* that this pledge was given in the presence of Mac Conmara, to wit, Sioda, and in the presence of his two sons Finghin and Maccon, and of Mór the daughter of Donnchadh Ua Briain also, and of the children of Cumhedha son of Lochlainn, and of many others of their race who gave, on each side, their consent to this covenant. The age of Christ, at the time that this covenant was made, was one thousand and five hundred and two years' more (1502).

70 This deed is no. XVIII in Trans. of RIA, vol. XV. *Baile-ui-Slatra* is in the parish of Tulla.

And it was thus I found it in the old
charter in the presence of Tadhg
Mac Flannchadha, of Flaithri Mac Flannchadha,
and of Diarmaid
Mac Flannchadha in like manner.[71]

} Copia vera examinata cum originali

[f.35]

Old translation of a fragment of a brehon's decree

These be the allegations and challenges on behalf of Donnchadh son of Seán and Tadhg son of Finghin against Cathal Ua Conchobhair and his people – to wit, that Cathal with his people came in force on the land of said Donnchadh and seized a prey of cattle belonging to him, and took away with them ... cows of the said prey and also took with them as prisoners the said Donnchadh and Tadhg and the rest of the ... being taken ... Cathal against his will ... but having beaten bruised and severely wounded the said Donnchadh and Tadhg.

I therefore adjudge that they came [with intent to] kill the said Donnchadh and Tadhg and that these [shall have] remedie and redress as if they had been killed in regard [to the fact that] the said Donnchadh and Tadhg never submitted themselves to the mercy of said Cathal and his people but scoope [escaped] by their own valour and assistance – as by the law in that behalf provided which is in haec verba ... [cetera desunt][72]

71 This deed is given by Todd in Proc. R.I.A. vol. VII p. 247 – and by Hardiman in Transactions of RIA, vol. xv no. iii and xix – the former number being a fragment of it. In the copy xix it is signed by the three sons of Seán, viz. Domhnall, Donnchadh, and Cumheadha (Mac Conmara). No iii gives the correct reading – 'seven marks and half a mark, and (*agus*) 15 in-calf cows' – the other versions are incorrect in this particular word, giving *a* which makes no sense for it does not here mean *in* as translated by Dr J.H. Todd, who builds up on his own mistranslation a fictitious statement of the value of cattle in those days. If *a* here signified *in* the following word *cuic* would be eclipsed which is not the case. Frost in his *History of Clare*, p. 58 has utterly failed to grasp the sense of this document, besides altering the names. *Baile-ui-Slatra* is in the parish of Tulla.

72 No. VIII in Trans. R.I. Acad. vol. XV. It would seem that the prey was rescued. The date is probably [1348 or 1504].

[f.36]
1510
This is the pledge of Conchobhar Ua Gleasain

Upon four free cows and upon their freedom in the quartermeer of the plain of *Gort-an-duin* which belonged to Lochlainn *riabhach* Ua Maeldomnaigh. And Lochlainn mortgaged it [the land] to Seán Ua Rodain for four-in-calf cows and a good boar-pig. And Seán Ua Rodain transferred the same free pasturage of cows and land to Conchobhar Ua Gleasain in pledge for that number of cattle until such time as it may be redeemed for four in-calf cows and a good pig.

As is witnessed by Ruadhri Mac Conmara, and Diarmaid, Aedh, and Tadhg the three sons of Ua Maelruanaigh, and Gilladubh Ua Comhraidh, and Conchobhar son of Domhnall *finn*.

The age of Christ being one thousand and five hundred and ten years (1510).

And I, Maelseachlainn Ua h-Icedha, wrote this.[73]

[f.37]
Egerton Charter 97 – Vellum A.D 1512

One leaf – 10 ¼ x 8 ¼ inch. Copy of a deed of mortgage of lands in the barony of Tulla, Co. Clare.

In dei nomine Amen. Here follows the charter of Conachubhar son of Tadhg I Miadchain [setting forth] how he gave a mortgage on these lands, viz. the quarter division of *Gort na hAgaillsi* [being a parcel] of the lands of *Ard na g[c]alleach*, and the quarter division of the children of Cumara. And this copy is written thus i.e. word for word [with the original], the tongue in which the charter itself is written being Irish, even as is this copy.

73 From Brit. Mus. Egerton Ms 139, p.179 translated by E. O'Curry.

securities were } The four sons of Toirdhealbhach I Brien ⁊ a sliacht, and the sons of Sida cam

Mac Conmara ⁊ isiad sin a slana re comall ga connartha da fhuil annso ...
⁊ gaon Con[chubhar] da fhuil anso .i. mc i ghilla duibh ⁊ Muracha mc Cisog ⁊ Taidhg mc Sida ⁊ Mathaain mc Taidhg mic Cisog ⁊ Donnacha mc Ruidri i Miadhcain ⁊ Mleachclainn mc Lochlainn ⁊ moran ele maille rin.

Ac do conrad Conachubhair mic Taidhg I Miadhchain re Donnach mc Conmara ⁊ re Aedh mcConmara mic Mleachcl. .i. seas mbha seasga do etc.

Ase seo conradh Conachubhair I Mhiadhchain ⁊ cloinne Conmara mic Mleachclainn re chele ⁊ mic Mathana mic Lochlainn .i. ceathrumha mor cloinne Conmara aige(?) Et ceathrumha mor Ghuirt na hAgaillsi dArd na gailleach am bith dis le sin ac C.M. etc.

Date 1512.

Securities: The four sons of T. I. Brien, viz. Conachubhar ⁊ Donnchadh ⁊ Murachadh ⁊ Tadhg, and the sons of Sida cam Mac Conmara.

Witnesses: Ruidri ⁊ Seán the two sons of William son of Murachad [O Brien?] ⁊ Murachad mac Cisog ⁊ Tadhg O Miadchain, and plenty more along with them.

[f.38]

1520

This is the sum of the pledge which Domhnall son of Seán son of Domhnall [Mac Conmara] and Tadhg *na buaile* (of the milking place) son of Cumara son of Domhnall [Mac Conmara] together gave upon the half quarter of *Cill Finntanain* to Sioda son of Pilip [Mac Conmara] and to his children – to wit:

Three score cows, that is to say two score cows from Domhnall and twenty cows from Tadhg in partnership with each other upon that land [as security]. Moreover it is not competent for any person to release the land [from this charge] save Pilip or to his children. And the release shall be effected by [delivery of] re-strippers not in calf in May, or by in-calf cows at Michaelmas. And the witnesses of the giving of this pledge are God in the

first place, and Seán the grandson of Mathghamhan [or Seán son of mac Mathghamhan] from *Ros-muinechair* [*Ros-mbennchuir*] and Maelsechlainn son of Tomas Mac Airchinnigh, and Richard son of the monk and his son.

And the age of Our Lord at this time is one thousand and five hundred and a score years [1520].

Endorsed: This is the deed which Tadhg *na buaile* son Finghin *buidhe* [Mac Conmara] gave to the earl of Thomond in my presence on the 11th day of August 1612.

Muiris Ua Maoilconaire[74]

[f.39]

1520–1

In the Bibliothèque Nationale at Paris is a volume (Ms Celtique I) containing divers MSS of the XV century by various writers, e.g. Uilliam mac an Legha, dated 1473 (fo.7); Flathri mac Briain mic Conchobhair mic Briain, who wrote 'The Dialogue of the Body with the Soul' for his chief Donnchadh (fo. 9–21); and on fo. 95 is the signature of Maelsechlainn son of Uilliam mac an Legha, who 'wrote this book for Donnchadh son of Brian *dubh* Ua Briain ... in the year wherein the son of the Earl of Ormond was treacherously slain by the Butlers' (A.D. 1518).

The fol. 21.v. was blank until some memoranda were inscribed on it by some owner of this part of the volume. At the top of this page is a note in four lines of a covenant entered into by a Domhnall Mac Conmara respecting a mortgage on Kilfintanan for some cows:

> This is the latest covenant made between Domhnall son of Seán [Mac Conmara] and Sioda son of Pilip [Mac Conmara] ... cows as a mortgage by Domhnall on the half quarter of *Cillfindtanain* and these are the witnesses of that agreement, viz. Maelleachlainn son of Tomas Mac an Oirchinneadh, and Seaan son of Mathghamhan son of Mac Donnchaidh, Finin son of Maccon, and Mathghamhan Mac Cenedeadh, and many more along with them.[75]

74 This deed is in Trinity Coll. Dublin (Ms I.6.13) with a translation by E. O'Curry, who notes that 'a stripper is a cow that continues to give milk for twelve months after calving, and when she continues thus into the second year she is called a re-stripper'. Other definitions of these terms differ according to various districts: e.g. 'A stripper is a cow that failed to produce a calf as expected, and if she fail a second time she is a re-stripper'. 'A stripper (called a drape in Yorkshire) is a cow which has ceased to give milk before calving a second time'.

75 The date is probably soon after 1520 (see preceeding deed).

[f.40]
+ Mac Conmara

These are the debts due unto the children of Seán son of Cumara by the children of Cumara son of Domhnall namely Tadhg and Conchobhar his sons – to wit:

Eleven cows for *eric*. Domhnall *ruadh* son of Seán son of Cumara and Tadhg *na buaile* (of the milking place) brought those debts on the children of Conchobhar son of Aedh; and Conchobhar son of Domhnall is to levy eleven ounces of the *eric* of Domhnall son of Seán upon the children of Seán son of Mathghamhan.

Moreover three marks which had been on mortgage on the land of the children of Seán, which they had paid off without any witness; and Donnchadh Ua Briain gave his award that the land should be redeemed by the children of Seán son of Cumara; and they have agreed to all these conditions.

The witnesses to this covenant are Donnchadh Ua Briain, and Domhnall son of Seán son of Domhnall, and Mathghamhan son of Cumhedha, and Domhnall *riabhach* son of Ruadhri.

And these debts are still due to the son of Seán son of Cumara. Also eleven cows, levied by Domhnall son of Seán for the like *eric* upon the sept Uí Cadla and upon Domhnall *buidhe*, are due from Domhnall to the children of Seán son of Cumara. Also twenty three pence payable by Onora daughter of Sida on behalf of Tadhg *na buaile* [which sum has been] due for twenty years and not yet paid. Also 14 ounces, being the price of a horse which Seán son of Cumara sold to Domhnall son of Seán, now due without interest.

Also seven sheep to be given to Domhnall son of Seán by Onora daughter of Sida, due without interest: and these debts are due unto Seán óg son of Cumara son of Domhnall.

And half of a quartermeer is to be reserved out of the share of Seán the grandson of Seán in mortgage, and the amount of that mortgage is thirty-two cows. This is the manner in which Seán son of Cumara is to discharge that mortgage, viz. [by delivery of] nineteen cows to Tadhg son of Lochlainn, and eight cows to the children of Cumara son of Domhnall, and seven cows to the children of Seán son of Cumara.

[f.41]

1523–39

This is the amount of the mortgage which Donnchadh Ua h-Iomhuir has on the half-quarter of *Cille*[in?] the quarter of *Each*...[*inis*?] – to wit:

Twelve milch cows and two bulled cows.

The witnesses are Donnchadh son of Toirdhealbhach son of Murchadh, and Muirchertach son of Toirdhealbhach, and Seán son of Sioda son of Eoghan [Mac Conmara], and Sioda óg and Eoghan Ua Comhruidhe, and Donnchadh Ua h-Iomhuir, and the two sows of Donnchadh óg.

And these are also witnesses, to wit, Lochlainn and Ruadhri the two sons of Maelseachlainn Mac Cunna, and Siobhan ní Maille [to a covenant] that Maelseachlainn Mac Cunna with the consent of his children shall not have it in his power to mortgage the said land for a higher amount to any other person, from the said Donnchadh Ua h-Iomhuir, save to his own descendants, and that the power of redemption is vested in the posterity of Mac Cunna and of Conchobhar son of Toirdhealbhach Ua Briain, Lord of Tuadh-Mumha. [76]

[f.42]

Furthermore [the sum of] five marks for redemption is to be paid by Conchobhar son of Sida son Domhnall *baccach* (the lame),

without being charged to Onora daughter of Sida, for a cow taken by Tadhg *na buaile*, this sum being due by her on account of Tadhg *na bualie*.

Furthermore a pledge taken by Cumara son of Domhnall from Onora daughter of Sida [is to be repaid]: Ruadhri Ua Dunlaing and Lochlainn Ua hArtigain being witnesses of its having been due for fourteen years ... Seán the grandson of Seán son of Cumara gave this covenant in keeping to the said Seán by my own consent ... [cetera desunt].[77]

[f.43]

This is the sum of the debts which Conchobhar son of Tadhg son of Uilliam [Mac Conmara?] has upon *Corrbaile* ...

and two in-calf cows and from Samhain eve to Christmas ... And Pilip

76 This deed is no. IX in Trans. R.I.Aca. vol. XV and its date is between 1523 and 1539. The land was in Aughenish townland in Ui-gConghaile.

77 This Deed of Arbitration is no. IV in vol. XV of Trans. R.I. Academy and was translated by Hardiman.

son of Diarmaid ... had that land in pledge at first from Mathgamhan Mac Craith, and Conchobhar son of Tadhg redeemed it of his own right ... from Ruadhri son of Pilip son of Diarmaid ...

In Trin. Coll. Dublin (MSS I.6.13) a copy endorsed on another deed, and very illegible. O'Curry could not decipher the remainder of it. See next deed which is evidently connected with it.

[f.44]

Statement of debts and mortgage, undated.

This is the sum of the debts due to Conchobhar son of Tadhg [Mac Conmara] upon lower *Corrbaile* from the children of Mac Craith – to wit:

Two in-calf cows, a groat, and half a mark, and the rents from 1 November to Christmas; and it was to the son of Diarmaid *riabhach* (the grizzled) that it had been mortgaged for that amount at first, and the land was to be manured according to custom.

In addition – seven stud mares which the clan Mac Craith stole from Tadhg son of Uilliam, and a springing (i.e. in-foal) stud mare stolen from Conchobhar son of Tadhg along with the former, and detained for sixteen years, without willingness to act justly towards Tadhg and Conchubhar, and living under protection constantly in the country.

And when Tadhg seized *Cuil-in-Chusain* as a pledge for justice upon them for his own stud mares, Conchobhar made a computation for [the loss of] his own mare for the sixteen years that she was away from him, and calculated 86 milch cows in lieu of her, whereupon he seized Upper *Corrbaile* as collateral security for Lower *Corrbaile*, as a pledge of justice from the clan Mac Craith. Moreover Conchobhar and Seán have in equal shares [a charge for] ten in-calf cows since the feast of St Briget upon one third of the lands which Domhnall son of Tadhg seized from clan MacCraith on account of his stud which they carried off.

Moreover Conchobhar and Seán have [a charge for] three in-calf cows (one being Seán's and two being Conchobhar's) since the feast of St John, or Lammas, upon the third part of *Ceapach dubh* of *Daire*, and of *Mothar*. Moreover Conchobhar has [a charge of] two marks on clan Mac Craiths' part of the *Brecacha*, as witnessed by Domhnall *dubh* and Padin the herdsman. And his agreement is that however long the *Brecacha* remain unploughed he shall have six crops upon them after being broken, and if manured with sand he shall have three crops after that [manuring] as

witness the same two [persons]. And he has them free and entire and twenty shillings on the portion of the *Brecacha* belonging to Tadhg son of Uilliam.[78]

[f.45]
c.1540

This is the covenant of Mac Conmara, that is Donnchadh the son of Domhnall, and Domhnall óg Ua Cearnaigh with each other concerning the quartermeer of *Gurtin-aith-Cailedh*, – to wit:

Domhnall óg is to give for it with its swamps, woods and barren tracts the loan of eleven marks which were due upon it to Dominick White, and Domhnall óg shall pay this sum to Dominick on behalf of Donnchadh Mac Conmara on account of that quartermeer of *Gurtin-aith-Cailedh*.

Moreover concerning the demands of the said Domhnall óg upon the said Donnchadh for many securities entered into for him, for many debts paid, and for many loans given to him for his use. Domhnall óg Ua Cearnaigh and Donnchadh Mac Conmara have agreed to abide by the award made between them by Muiris Ua Mailconaire and Tadhg son of Pilip *finn* and Domhnall *derg* and Richard Ua Cearnaigh.

And this is the said award, viz. that fifteen marks be paid to Donnchadh and that he give a mortgage on the quartermeer of *Gurtin-aith-cailedh* for that amount.

Moreover a further debt due to Domhnall óg by Donnchadh Mac Conmara is the sum of three marks lent to him upon the security of Seán son of Mathghamhan Mac Conmara, for which amount Donnchadh promised to give a charge on the said quartermeer. And all these debts amount to twenty-nine marks, and this sum, either in cows or money, shall be payable at the date of the redemption of the land, which redemption shall not take place for eight years from this present Michaelmas.

And [at the expiration of the eight years] it shall be redeemed on Michaelmas Day, and if it be not then redeemed, it shall not be redeemed for [a further period of] three years from that Michaelmas. And the witnesses present at this covenant are Muiris Ua Mailconaire, and Tadhg son of Pilip, and Richard Ua Cearnaigh, and Domhnall *derg*, and the two

78 This deed is in Trin. Coll. Dublin (I.6.13) with a translation by O'Curry. The lands mentioned are in Clooney parish.

priests Aedh Ua Dallain and Mathghamhan son of Uilliam, and Ferdorcha Ua Mailcaine, and Conchobhar Ua Comhruidhe, and Tadhg óg, and Tadhg Ua Siagaile, and the two sons of Mathghamhan Mac Conmara.

And it is agreed that it shall not be in the power of Domhnall óg [f.46] to dispossess him [Donnchadh] of any part of the said land save in favour of his [Donnchadh's] own brothers, and if he do so [foreclose the mortgage] he [Donnchadh] is to obtain as good land in *Creatalach* and he [Domhnall] is not to have power of eviction without giving him [Donnchadh] an equivalent for his lease and place within the townland.

And the sureties for the performance of this agreement are – God in the first place, and Seán son of Cuilen representing the Ua Briain, and Muiris Ua Mailconaire representing the learned men of *Tuadh-Mumha*, and the Bailiff of the Mayor representing the City of Limerick, and Domhnall Ua Briain as chieftain and surety for the performance of this covenant between them.[79]

[f.47]

c.1540

This is the covenant of Domhnall óg [Ua Cearnaigh] with Donnchadh Mac Conmara respecting the half-quartermeer of *Cell Fintanain* – to wit:

Eight marks given on mortgage on that half quartermeer belonging to Donnchadh Mac Conmara.

And the same is not to be redeemed for three years dating from this Michaelmas, and if not redeemed on that day it shall not be redeemed until [the expiration of] three years after. And the witnesses to this agreement are Muiris Ua Mailconaire, and the two sons of Mathghamhan Mac Conmara, and Ferdorach Ua Mailcaine, and Tadhg son of Pilip, and Murchadh Ua Briain, and Domhnall Ua Briain, and they are the guarantors and sureties for the performance of this covenant between the said two parties.[80]

79 This deed is no. XII in Trans. R.I. Acad. vol. XV. Its date is about 1540 for Dominick White was Mayor of Limerick in that year, and it was drawn before 'The Ua Briain' was created Earl of Thomond in 1543. The land *Gurtin-aith-cailedh* is in the present townland of Brickhill in the parish of Kilfintinan.

80 This deed is no. XIII in Trans. R.I. Acad. vol. XV. Its date is about 1540 and the land mentioned is now in the townlands of Ballybroughan and Gallows Hill in the parish of Kilfintinan.

[f.48]

1542

This is the compact of Domhnall óg Ua Cearnaigh with Grainne daughter of Maccon [Mac Conmara?], the said Grainne drawing towards the end of her life – to wit:

Eleven ounces which Grainne has as mortgage upon two-thirds of *Laon-Ui*, and two-thirds of *Cluain-idir-da-sruthan* (the meadow between two brooks), and two-thirds of the half of *Gortín gearr* (the short little field), and of the two gardens and two free cows; and Grainne has given her own rights to these [assets] to Domhnall in pledge of the above charges, she being near the end of her days, and having the gifts of her children in her possession.

And it was agreed that [in exchange] for [her charges on] that land given by her to Domhnall he should support and feed her, she paying in addition eleven ounces for her entertainment. It is not competent for any person to redeem that land save her son, and he may redeem it only after her death.

And if there should be any manure or building [upon it] the same is to be valued, and he shall redeem it according to the appraisement. And it shall be redeemed between May-day and the feast of St Brendan, and if not so redeemed it shall not be redeemed until the ensuring May-day come. The age of Our Lord now is one thousand five hundred and two years and twenty and twenty (1542).

Witnesses to this writing with the permission of both parties, and the witnesses of this compact are Domhnall [Mac Conmara] and the sons of Finghin son of Maccon [Mac Conmara], and Maccon son of Lochlainn [Mac Conmara], and Richard Ua Cearnaigh, and Tadhg son of Pilip son of Aedh [Mac Conmara], and many others along with them.[81]

[f.49]

1542

The form and effect of this document set forth that a partition [of land] is hereby made by Donnchadh Ua Briain and Conchobhar son of Donnchadh Mac Gluin between Mathghamhan son of Murchadh Mac Gluin and Donnchadh son of Murchadh Mac Gluin [his brother] – to wit:

The quartermeer of the half quarter contiguous to the *Lios* and the half quarter of *Cuilleanach* in *Baile-mic-Gluin*, and the half quartermeer of

81 This deed is in Trin. Coll. Dublin (MSS I.6.13) with a translation by E. O'Curry.

Doirín in *Ceathramhadh-gearr,* and the half quartermeer of the field of *Lios-dubh* in the *Craobhach,* and the half quartermeer of *Cluain-mór* in the *Craobhach,* comprising in all five half quartermeers to Donnchadh son of Murchadh Mac Gluin. And all lands in the possession of the children of Mac Gluin over and above those just mentioned shall be divided share and share alike between [the two brothers] as long as Donnchadh is entitled to a share in the lands of Mathghamhan. And they shall redeem all mortgaged lands belonging to them share and share alike in the like manner [to this date?]. And they shall make an equal partition between them of all other lands which they may [jointly] inherit henceforth, and be at peace one with another.

Written at *Cuince* on the eleventh day of July anno Domini M.CCCCC two years and two score years [1542].

The witnesses present are God in the first place.

Ua Briain i.e. Donnchadh; Mac Conmara i.e. Tadhg son of Cumheadha; Donnchadh son of Seán [Mac Conmara] of *Coill-chisin*; Tadhg Ultach [Ua Briain] of *Baile-ui-Mailcaisil*; Conchobhar Mac Gluin; Ricard *ruadh* Mac Maoilin [and] Conchobhar *balbh* (the stammerer) Ua Rodain – the stewards of the Ua Briain.

misi Mathghamain Mac Gluin.[82]

[f.50]

1545

This is the sum and amount of the mortgage paid by Murchadh son of Donnchadh Mac Gluin on the half-quarter of the *Lios* of *Carnmela* on behalf of Donnchadh son of Conchobhar Ua Briain his heirs and assigns and on behalf of Murchadh Mac Gluin himself and his heirs and assigns after him – to wit:

Twenty milch cows with their calves and twenty in-calf cows and a dozen heifers and two strippers. This mortgage was given to Mathghamhan son of Lochlainn Mac Conmara of *Baile-ui-Marcachain* upon the half quarter of *Lisín-na-Buinni* and upon the half quartermeer of *Beal-an-earbuill* together with their woods and crags their moors and streams their grass and water and every other product of the said lands from this time forward.

82 This deed is no. XX in Trans. R.I. Acad. vol. XV. The lands named in it are in the parish of Quin, except *Cluain mór* in Doora. Donnchadh Ua Briain at this date was Tanist of Thomond, and became second Earl of Thomond in 1553 at the death of his uncle Murchadh.

And it is with the permission and consent of Tadhg son of Lochlainn his brother, and with the permission of their family and of their relatives on both sides that the said Mathghamhan son of Lochlainn and Tadhg son of Lochlainn have mortgaged the half-quarter of the *Lios* and of the *Cnoc* in the aforementioned lands. Moreover all other lands acquired by the children of Mac Gluin shall be enjoyed, share and share alike between themselves and their foster-brother the said Donnchadh Ua Briain and their heirs after them.

And at the expiration of five years after the above mortgage Murchadh Mac Gluin gave sixty marks of purchase money to Mathghamhan son of Lochlainn and to Tadhg son of Lochlainn for the fee-simple of that land for ever, according to the terms, act, covenant and mortgage heretofore mentioned. Anno Domini at this time MCCCCC V years and two score [1545]. In witness whereof we Mathghamhan son of Lochlainn, of *Baile-ui-Marcachain*, and Tadhg son of Lochlainn of the same place, do set our hands to this deed in the presence of the witnesses here present:

Mathgamain Mac Lochlaind
Tadg Mac Lochlaind
and Murchadh Ua Briain is the Ua Briain at this time.

These are the witnesses present, to wit – Tadhg and Seán Mac Conmara of *Dangean-brec*, Domhnall son of Ruadhri of *Cathair-Scuaibi*, Flaithbeartach Ua Lididhe of the *Sen-dangean*, Tadhg Ua Briain of *Cuince*, Tomas *dubh* Mac Maoilin of *Cill-na-h-abhainn*, Tadhg son of Donnchadh son of Seán [Mac Conmara] of *Cluain-Lisain*, and many others not mentioned here.[83]

[f.51]
blank page

[f.52]
1548
This writing declareth that Domhnall son of Donnchadh son of Domhnall [Mac Conmara] of *Beal-in-Chuilinn* and Seán Ua Mailconaire of *Ard-coill* do covenant and agree with each other concerning the quarter-meer of *Machaire-in-cloiggin* (Field of the ~~little bell~~ skull) and the half quarter-meer of *Beal-na-hAbhann* (mouth of the river) with their woods, bogs, and unreclaimed tracts, – to wit:

83 This deed is XXI in Trans. R.I. Acad. vol. XV. The lands are in Quin parish.

The said Domhnall for himself and his heirs conveys the said three half-quartermeers unto the said Seán and his heirs in mortgage for twenty-seven in-calf cows. And if the said lands be redeemed between May-day and the feast of St John, the loan shall be repaid in barren cows, and if redeemed after the feast of St John it shall be repaid in in-calf cows. And the whole crop shall be given free to the said Seán in the year of redemption. And it shall be binding on Domhnall and his heirs to keep the lands free from tribute for Seán and his heirs from henceforth. And none shall have power to redeem the said lands save the lawful heirs of Domhnall and with their own castle lawfully in their possession.

And I, Muirchertach son of Conchobhar óg Mac Flannchadha have written this agreement with the consent of both parties at *Ros-mbennchuir* in the age of the Lord M. and five C. and eight and two score years [1548].

The witnesses present are Donnchadh son of Seán son of Mathghamhan [Mac Conmara] of *Ros-mbennchuir*; Domhnall *ruadh* son of Conchobhar *uaithne*; Seán son of Donnchadh son of Domhnall; Flaithri son of Domhnall Mac Flannchadha; Lochlainn Ua Cearmoda; Lochlainn *riabhach* Mac Isog.

On the ninth
dayof June was
this writing made.
The hand of: Domhnall mac Donnchadha
Flaithri Mac Clannchai
Seán mac Donnchadha
Donnchadh mac Seain
Domhnall *ruadh* mac Conchobhair *uaithne*.[84]

[f.53]

1548

Assignment of mortgage of land

Concerning the half quartermeer of *Gort-puill-an-marla* (field of the marl pit) the intent of this writing is that we Lochlainn son of Seán Ua Cearmoda and Domhnall son of Lochlainn do [hereby] convey our right our possession and our mortgage [thereon] to Seán Ua Mailconaire and his heirs after him in consideration of ten cows and twenty shillings in money.

84 This deed is no. XXIII in Trans. R.I. Acad. vol. XV and is copied from the original deed now in the Brit. Mus. Egerton charter 98, vellum, 1 leaf 9in. x 5¼in. The lands were in the parish of Kilfinaghta.

And we do acknowledge to have received full payment and satisfaction from the said Seán Ua Mailconaire for that mortgage, and we have no further claim upon him, and we have given our own security into the hands of Seán and our possession.

Written at *Rosmuinecar* (*Ros mbennchuir*) in the year of the Lord one thousand, and five hundred, eight years and two score on the eleventh day of December [1548].

The witnesses present are – Domhnall son of Donnchadh son of Domhnall [Mac Conmara]; Donnchadh son of Seán son of Mathghamhan [Mac Conmara]; Maccon son of Sioda son of Domhnall [Mac Conmara]; Tadhg Ultach Ua Briain.

I, myself, Flaithri Mac Flannchai [*sic*] wrote this with the consent of both parties.

The hand of:	Lochlainn Ua Cearmoda Domhnall mac Lochlainn
The hand of the witnesses:	Donnchadh mac Seáin. Donnchadh mac Donnchadha Tadhg Ultach Ó Briain Maccon mac Sida Cumea mac Seain[85]

[f.54]

1549

This is the covenant of Domhnall óg Cernaigh and of Maccon son of Lochlainn son of Sioda [Mac Conmara]

with each other respecting a mortgage on the land called the third of the quartermeer of Gort and a sixth part along with it. And the amount which Domhnall óg advanced upon that land was fourteen ounces of good money less seven pennies, and goods which he and Domhnall *derg* had received.

And it is thus that these debts were [incurred] by Maccon, viz. an ounce of gold to Domhnall *derg* upon Maccon's account and the balance paid to himself in money and goods namely a mantle and a sword and the

85 British Museum – Egerton Charter 99 vellum, one leaf, 8½ x 5 inches. The land was in the parish of Kilfinaghta.

rest of the money given to himself, to wit, Maccon son of Lochlainn. And the witnesses to this covenant are God in the first place, and Muiris Ua Mailconaire, and Flathri son of Domhnall Mac Flannchadha, and Tadhg son of Pilip son of Sioda [Mac Conmara] and Domhnall *derg*, and Richard Ua Cernaigh. And it was in Domhnall's own house that Maccon received everything that was paid to himself; and the ounce of gold was paid in *Luimneach* for the account of Domhnall *derg*. And it was in the house of Muiris Ua Mailconaire in Ceapach that this covenant was written and made. And the age of Our Lord at this time was one thousand and five hundred and two score and nine years to the Kalend (1549).

And Domhnall *derg* has Maccon's powers to redeem the land if Domhnall survive Maccon.

I, Flathri Mac Flannchadha wrote the above by the consent of both parties.[86]

[f.55]

1549

This is the covenant of Domhnall óg U Cearnaigh and Lochlainn son of Sioda [Mac Conmara] concerning the land itself – to wit:

A milch cow with a heifer and two ewes with their lambs and ... shillings in money if Domhnall so choose if the land be not redeemed from him. And the names of the lands are *La na saoirsi* (Day of freedom) and *La na cána* (Day of tribute). And it was by the leave of Domhnall *derg* and of Maccon son of Lochlainn that Lochlainn gave these mortgages, and they are competent to release [the land] from Domhnall óg. And the witnesses to this covenant are Domhnall *derg*, and Domhnall son of Finghin, and Conchobhar the smith, and Edmund Marnsscal. At *Cill Fintanain* in the house of Paidin [Ua Mailconaire] this covenant was made. And the age of Our Lord is one thousand five hundred and two score and nine years (1549).

And Domhnall has liberty to carry away its manure if there be manure upon it, or to have a year on it after its release according to his choice.

This deed is endorsed on the preceding document.

86 This deed is in Trin. Coll. Dublin, with a translation by E. O'Curry (MS. I.6.13).

[f.56]
This is the mortgage of Donnchadh Ua Moran unto ... son of Conchobhar Scanlan on *Baile-ui-Comhraidhe* – to wit:

Thirty five cows and fifteen pence to be given to the grandson of Donnchadh, and the said land shall not be redeemed until the expiration of three years and [then] is to be redeemed before the feast of St John by one day's impounding (*gobhand en laoi*) [or distraint]. The sureties to this covenant are Seán son of Sioda [Mac Conmara] and the son of Donnchadh son of Maccon son of Sioda [Mac Conmara].[87]

[f.57]
Endorsed: 'Judgment of the brehons in the case of Donal mac Rorie and the mac Lochlainns A.D. 1550'.

This is the judgment which Aedh son of Conchobhar Mac Flannchadha and Flaithri son of Domhnall Mac Flannchadha gave [in the cause] between Domhnall son of Ruadhri [Mac Conmara] and the sons of Lochlainn son of Finghin son of Donnchadh [Mac Conmara], namely Sioda, and Cumhedha of the Green Hill, and Seán *ruadh*, who came to Domhnall's house at *Creatalach*, attacked and left him for dead, caused his wife to miscarry, and carried off a large quantity of household goods.

And these charges having been proved in the presence of the said judges, they awarded a fourth part of the half-quarter upon which the castle of *Creatalach cael* stands to Domhnall, until redeemed from him [by delivery of] sixteen in-calf cows. And the guarantees for carrying out this award are God in the first place, and Cumara son of Domhnall in the last place. And the witnesses present at this judgment were – Domhnall son of Seán, and the sons of Maccon son of Domhnall, and the sons of Cumara son of Domhnall, and the sons of Seán Mac Conmara, and many Councillors of the people in like manner, and also Conchobhar Ua Midhacháin.

Moreover to Domhnall, from the sons of Lochlainn son of Finghin, are hereby assigned:

1. Eight pennies and half a mark of the chief-rent due to the Ua Briain for arrears in the year out of the half-quarter of

87 This deed is no. No. V in vol. XV Transactions R.I. Acad. translated by Hardiman. The land was probably in the parish of Tomgraney, and is named *Cuil-ui-gComhruidhe* in the Rental of Mac Conmara.

Creatalach Cael, Domhnall having paid that amount for his fourth part.

2. A groat and two ounces which fell due on the fourth part of the sons of Lochlainn; that sum having been charged to Domhnall because he resided on the land, the portion of the lands of the sons of Lochlainn being waste, and Domhnall without power to evict them, as Thomas óg Mac Gormain, in whom this portion became invested, had given it to Toirdhealbhach son of Tadhg Ua Briain to levy from Domhnall: and Murchadh Ua Briain and Flathri son of Domhnall [Mac Flannchadh] having given their award that Domhnall should pay that sum for having lived on the land: and Domhnall having [f.58] paid the proportion due on the quartermeer of the sons of Lochlainn, which was waste, to the said Tomas óg in accordance with the award of Murchadh Ua Briain and Flathri son of Domhnall [Mac Flannchadh]. And Domhnall having paid a groat and two ounces in each year of the first three years of the reign of Murchadh Ua Briain over *Tuadh-Mumha*, there is now due to Domhnall a shilling and an ounce of gold upon the quartermeer of the sons of Lochlainn with additions from that time to the present.

Moreover the sons of Lochlainn son of Finghin having forcibly entered *Creatalach* and carried off four stud mares and a palfrey from Domhnall, these have been due to him ever since. Also [the cost of] twelve days following, which Domhnall then had, and were lost to him for lack of his horses at that time; and it was in the summer in which Murchadh Ua Briain and Donnchadh Ua Briain went to England (*go Sagsana*) [in 1543].

And the age of Our Lord when this writing was made is ten years and two score and five hundred and one thousand (1550). And I their impartial notary have written this [judgment] with the consent of both parties, in the presence of Aedh Mac Flannchadha and many others who are not enumerated.[88]

88 The original vellum is now in the Royal Irish Academy, classed among 'Stowe MSS' I.5.1. As it does not appear in C. O'Conor's catalogue of the Stowe Library, it may have been acquired from the Ashburton Collection. E. O'Curry had a copy of it, which, with his translation, is now in Trin. Coll. Dublin (MSS I.6.13).

[f.59]
A bill of indictment [c.1550]

These are the accumulated charges of Tadhg son of Sioda [Mac Conmara] upon Finghin son of Maccon [Mac Conmara] and upon the children of the son of Maccon, to wit, a wound in the belly, and two blows of a great *feídil*, and a blow upon his arm out of which were taken two *fersaid* (...) done to him without justice or right.

Moreover Tadhg further charges upon Finghin and his sons [the loss of] eleven sheds full of corn and turf which were lost to Tadhg by reason of his having been arrested and sent to gaol; also of four stud mares taken from him on the same day; also of six score sheep; also of swine to the value of nine ounces; and this amount due to him for twenty years past without justice [done]. Moreover he charges the same parties with the value of a sheep belonging to Tadhg son of Sioda that was eaten by Finghin son of Maccon, and brings as witness thereto [the testimony of] Donnchadh Ua Mareachain and Mor ní Geimherain.

Moreover a further charge against Lochlainn son of Finghin and Domhnall, to wit, of having stolen four sheep from Tadhg son of Sioda. Domhnall *derg* and Tadhg having followed the sheep from information [received] recovered two of them, and [the value of] the other two sheep with their increase for six years is due.

Moreover Finghin son of Maccon having arrested Tadhg son of Sioda and delivered him over to Conchobhar son of Sioda, and twenty ounces having been taken from him as ransom, he [now] claims that amount from Finghin on account of his arrest. Moreover – a quarter of a townland having been wrested from Tadhg son of Sida, to wit, the half quarter of *Cill-daingin-in-Chablai* and the half quarter in *Baile-in-mhota*, and Tadhg son of Sioda claims the profits of those lands with the woods and wells, to wit – five marks each year, from Finghin and his sons.

Moreover all the corn which Tadhg son of Sida has sown that year was lost to him, and he could not [garner] his hay, or look after the timber because of the sons of Finghin son of Maccon. And eighteen score [f.60] sheaves of wheat were stolen by the same parties from Tadhg son of Sida by reason that he was not permitted to superintend his property.

Moreover it is further charged that six measures of wheat were stolen by the sons of Finghin from Tadhg son of Sida out of his church (*tempall*)

and [conveyed] to the house of Slaine the daughter Seán, and that the said [wheat] was sold, the [said persons] having no wheat of their own.

+ Ihesus. M.[89]

[f.61]

1556

Amen. This is how Domhnall óg Ua Cernaigh had a pledge on *Baile an mhuta* – to wit:

Upon half of one quarter of it, that is on the quartermeer of *Gort in imeadh* [Butter-field] and the quartermeer of *Lecan*: Domhnall óg after having obtained *Baile an mhuta* from Tadhg son of Sioda [Mac Conmara?] and his son, the bailiffs of Donnchadh Ua Briain came to Domhnall óg and took three fine mares from him on account of a composition due to them by Tadhg and his son, whereupon arbitrators were appointed and they adjudged five marks and half a mark to Domhnall óg from Tadhg son of Sioda and his son; and Tadhg's son gave a half quarter of land in *Baile an mhuta* to Domhnall óg in pledge for this debt.

The said bailiffs were Ruadhri Ua Mulolluigh and his son, and Gilladubh the Liar. The said arbitrators were the priest Mathghamhan son of Uilliam, and Tadhg son of Pilip, and Maelseachlainn son of Seán, and Mathghamhan Ua Lighi.

Moreover when Domhnall óg Mac Conmara had slain Tadhg's son Sioda [it was found that the said] Sioda had willed his accumulation and interest in the said lands to his brother and head of his family Domhnall *derg*, and that all debts due by him to Domhnall óg Ua Cernaigh should be paid by Domhnall *derg*, and then that Domhnall *derg* should take possession of the said land himself.

Moreover Domhnall óg [Ua Cernaigh] had a pledge on the land for one mark because two of his swine had been taken by Domhnall *derg* and the two sons of Lochlainn Ua Comhraigh but they submitted to arbitration, and half a mark was awarded for the loss of the two swine and three ounces as costs of evidence, and one ounce as the umpire's fee. And Domhnall *derg* gave that mark as a pledge on the said land.

89 A copy of this Bill made by E. O'Curry and his translation of it are in Trin. Coll. Dublin (MSS. I.6.13), but he does not say where he saw the original. Its date is about 1550.

Moreover Domhnall óg [Ua Cernaigh] paid three ounces of money in 18 groats[90] to Domhnall *derg* and to Siban de Nais which was a further charge on the said land.

Moreover when Domhnall *derg* had paid off the said debt, Tadhg the son of Domhnall [Mac Con]mara pledged the land for seven ounces in Limerick, and Domhnall óg [Ua Cernaigh] redeemed the same for a further mortgage on the said land.

[f.62] Moreover when the said Domhnall *derg* was in pledge for a gambling debt of eight marks, in the custody of Aedh *ruadh* son of Conchobhar óg Mac Flannchadh and Eoghan 'of the money', Tadhg son of Domhnall Mac Conmara having given a good steed to those gamesters for his ransom, and Domhnall óg Ua Cernaigh having sold a rick [of corn] to the said Tadhg for seven milch cows, and the said Tadhg having given an ounce of gold and six marks in payment for three of the mich cows, Domhnall *derg* gave a charge on the land of *Baile an mhuta* for the said six months and an ounce of gold to Domhnall óg [Ua Cernaigh]; and the said Tadhg Mac Conmara is bound to fulfil that pledge to Domhnall óg from Domhnall *derg*. And Sibhan de Nais and her children are also bound to the fulfilment of the pledge: and so are Tadhg the son of Pilip, and Donnchadh son of Cumara, and Muiris Ua Mailconaire, and Una the daughter of Brian son of Muirchertach, and Richard Ua Cernaigh.

The age of Our Lord at this time is one thousand, five hundred, sixteen and two score years (1556) and it was in the year wherein Donnchadh Ua Briain died that this mortgage was given.

This deed of mortgage is in Trin. Coll. Dublin (MS. I.6.13) with a translation by Eugene O'Curry, ~~the latter was revised in 1902 by Fr. P. Dineen and other scholars at the R. Irish Academy on my behalf~~ who states that the lands mentioned therein were situated near Sixmilebridge.

[f.63]

This is the Covenant of Mathghamhan Ua hAllmhurain and Graine daughter of Ruadhri Ua Maoldomnaigh with Seán son of Ruadhri son of Conchobhar [Mac Conmara] and his children – viz:

Three and twenty cows as a mortgage upon the portion of Seán and his children in *Durra*, and Donnchadh son of Maccon son of Eoghan

90 1 uinge therefore of this specie equalled 6 groats, and was not therefore equal to 1 uinge of silver.

[Mac Conmara] to have [for a like number? a mortgage on the] half quarter of the said land excepting the fifth part thereof; and the said Seán shall [pay] ten groats rent accruing unto him out of the said lands over and above the said mortgage; and the said Mathghamhan and his sons, or the survivor of them, shall have twenty-three cows paid over unto them at the time of redemption in one whole and entire payment, and such redemption shall be made at the bawn of *Cuil-riabhach* by the feast of St John in midsummer.

And on the entry a while after of Cumedha, Mathghamhan [demanded] four cows award as a pledge of that ounce [the 10 groats *supra*] and in lieu of the four cows he received a milch cow and a brood mare, and [it was agreed that] those four cows should be paid with the rest of the mortgage, and that if payment be made of the ounce of rent on *Durra*, or if there be any dispute by the sons of Seán son of Ruadhri, then *Cluain na choir* shall be in mortgage in place of *Durra*; and four other cows upon that sixth share of Donnchadh son of Maccon son of Eoghan. And a further covenant of Mathghamhan and his children with the sons of the said Conchobhar (*sic*) [?Cumedha son of Seán, etc] is that no other person shall have any power of redemption of that land and it shall be redeemed only by Mathghamhan and his posterity (*sic*) [?to Mathghamhan and his heirs by the descendants of Seán].

And a further covenant is that if any cow-tax be imposed on that land Mathghamhan and his children shall pay the same, and the amount shall be added to the mortgage and repaid at the time of redemption with the rest of the said mortgage.[91]

[f.64]

This is the mortgage of Mathghamhan Ua hAllmhurain and his posterity on the portion of Ruadhri son of Maelseachlainn in the lands of *Durra*, – to wit:

Nine and twenty barren cows and eight in-calf cows. Moreover there is a charge of twelve cows to the children of the said Mathghamhan upon the portion of Ruadhri son of Conchobhar son of Ruadhri.

Moreover the children of the said Mathghamhan have a mortgage on another half quarter of *Durra*, that is, on the eastern division which is

91 This deed is No. VI in Trans. R.I. Acad. vol. XV and as there given is very defective, and erroneously translated. Part of the above translation is taken from an old copy in English. The words within brackets are supplementary. The land of *Durra* was *Dubh-ros* in the parish of Killuran.

in the possession of Tadhg son of Donnchadh alone, never a sod thereof being in possession of the son of Mathghamhan; and while Tadhg son of Donnchadh was holding that land, a tribute of three cows was demanded from the sons of Mathghamhan and three cows were levied off them for the cow-tax which fell due on the said land at that time, and it was from Brian son of Mathghamhan that two cows were seized by Donnchadh son of Mathghamhan Ua Briain, and this levy was a long time ago. Moreover the sons of Mathghamhan has a mortgage upon the third part of a quartermeer belonging to the sons of Seán son of Ruadhri for a debt of two ounces which were in the hand of Sioda son of Maccon, a brood mare and a young horse.[92]

[f.65]

1562

Be it known to all by these presents that I, Conchubhar Ua Briain, Earl of Thomond, have given the half quarter of *Gort-finn* in *Tuaim-finn-locha* to Seán Mac Conmara in mortgage for twelve in-calf cows at Michaelmas. And I do declare that I and my descendants after me are bound to secure and maintain the said half quarter unto Mac Conmara and his descendants until the term of its redemption, and I acknowledge that the same is not redeemable except at Michaelmas by one day's impounding. And as evidence of my receipt of the said consideration and of my giving the said land in mortgage for the same I, Conchobhar Ua Briain, do set my hand to this indenture.

And the witnesses to this agreement are – Uaithne Ua Lochlainn who is The Ua Lochlainn, and Conchobhar Mac Gilla-Riaba, and Ruadhri son Donnchadh [Mac Conmara], and Sioda son of Ruadhri.

And the age of Christ is one thousand five hundred three score and two years [1562].

[signed in English letters] Conor Thomond.[93]

92 This deed is No. VII in Trans. R. I Acad. vol. XV with additional matter from another ancient translation. The second and last clause seem to refer to the mortgage in no. VI of Hardiman's collection.

93 This deed is No. XXVII in Trans. R.I. Acad. vol. XV.

[f.66]
1570
This is the deed and covenant of Conchobhar Ua Briain, Earl of Thomond, and Mac Conmara, namely Tadhg son of Cumhedha son of Cumara, with each other – to wit,

Tadhg the Mac Conmara with the heirs after him shall act with fidelity and without malice towards the Earl and his heirs after him for ever, and not only shall he and his heirs so act in respect to the Earl and his heirs, but also no person on their side shall act contrary to these conditions and covenants, and further neither he nor his heirs shall wage war against or oppose the Earl and his heirs for ever, either by themselves or in company with any other person. In addition Mac Conmara and his heirs shall act faithfully and kindly to the country of Clann Chuilein and shall make no encroachments thereon beyond the bounds of justice ... [?as it was in the times of] of his father and grandfather ... [Moreover Mac Conmara shall?] procure from them [i.e. Clann Chuilein] as witnesses [to this agreement?] the four oldest and best men in the country, together with the eldest and best steward and marshal of the country who are with Mac Conmara; and by virtue of this covenant and deed he shall be content [without further pledge] from the Earl.

And the sureties for the performance of this deed and covenant are God with the Angels, and every customary oath to be sworn [before] the [Lord] Justice of Ireland representing the English and Irish of Ireland. Furthermore, for the due performance of the premises Mac Conmara and his heirs shall be bound in a certain sum to be specified.

These are the conditions and the penalties upon which the Earl of Thomond liberated Mac Conmara, together with the sureties and other hostages required from him; to wit, Ua Seachnasaigh under penalty of twenty marks, and Mac-Ui-Briain-Ara under penalty of two score marks, and Uilliam Ua Mailriadhain with his son together [under penalty of] two score marks, and Donnchadh son of Mathghamhan Ua Briain [under penalty of] twenty marks, that Mac Conmara and his posterity shall not desert the Earl and his posterity for ever.

These are the witnesses on the part of the Earl to the said penalties, viz. Domhnall son of Murchadh Mac Suibhne, and Tomas Mac Cubhag and Ruadhri og Ua Faiche, and Gilla-Bridge Mac Bruaideadha. [f.67] This is the condition made by Mac-ui-Briain-Ara when he became a surety for and liable to penalty on behalf of Mac Conmara, viz. that if Mac Conmara should be liberated within a fortnight, he would become bail for him and be subject to the above penalty; and these are the witnesses thereto, namely

Tadhg mór son of Cearbhall Ua Maelghaoithe and Eoghan Ua Ceinneidigh; and if he be not set at liberty within the fortnight then Mac-Ui-Briain shall be free from that penalty and suretyship, unless different tidings reach him. And his penalty is two score marks.

This is the condition made by Uilliam Ua Mailriadhain when he became a surety for Mac Conmara, viz. that if Mac Conmara should be set free within a fortnight and should not perform his engagement with the Earl, Uilliam, in conjunction with the Earl, would proceed against him. These are the witnesses present when Uilliam Ua Mailriadhain became surety for Mac Conmara, namely the two sons of Domhnall Ua Cinneidigh, Pilip and Aedh; and the priest Eoghan son of Ruadhri son of Donnchadh; and Saerbretach Ua Duibhdaboirren. This was the decree of Uilliam himself.

Donnchadh son of Mathghamhan Ua Briain is under a penalty of twenty marks for Mac Conmara in the presence of Mac Floinn, Mac Craith, and the sons of Seán Ua Mailconaire [as witnesses].

Moreover Conchobhar son of Ruadhri Mac Conmara is under a penalty of ten marks; and the three sons of Lochlainn for fifteen marks; and the four sons of Sioda son of Eoghan, viz. Donnchadh, Cumhedha, Cumara, and Sioda óg, for fifteen marks more; and Finghin son of Lochlainn [Mac Conmara] and his son for fifteen marks; and Toirdhelbhach son of Domhnall *ruadh* for five marks; and the priest the son of Tadhg son of Mathghamhan, and the two sons of Lochlainn son of Mathghamhan, and the son of Ua Maildomnaigh for twenty marks.

Moreover if any dispute arise among the parties to this agreement the same [shall be referred] to Mac Lochlainn, Mac Craith, and Mac Gormain, and Mac Gilla-riabhaigh [to adjudicate on].[94]

[f.68]

1570

This is the amount of the purchase money given by the Earl of Thomond to Cumara son of Sioda son of Eoghan [Mac Conmara] – viz:

Two marks for the half of Cumara's portion of *Cluain-mothair*. And the Earl and his son after him shall enjoy the fee-simple of the same land for ever from Cumara and from his son. And the Earl covenants to befriend Cumara and to protect and defend him in his rights.

94 This deed is no. XXV in Trans. R.I. Acad. vol. XV. The date is about 1558.

These are the witnesses present at the making of this covenant:

Mathghamhan óg, Onora ní Briain, the Gilla-dubh son of Tadhg, Conchobhar Mac Gormain, Ricard *ruadh* Mac Moilir, and Ruadhri mór.

I, Donnchadh Ua Duibhfeartain, have written this at *Cuil-riabhach*, with the consent of both parties, this third day of the month of August.[95]

[f.69]

1573

This is the covenant of Uilliam son of Seán Uí Fearghala with Maccon son of Seán son of Domhnall son of Cumedha [Mac Conmara] of *Aill-beg* concerning the lower half quarter of *Aill-beg*. And [it was] in this way that Uilliam acquired the fee simple of that land from Maccon, – viz:

[The said land] being in pledge for a mark of tribute due to the Earl's stewards, even to the Ua Rodain family, Maccon requested Uilliam to release the land and to give him the crops, and Uilliam [paid the said tax and] gave him the said crops, whereupon Maccon gave his rights in the said land to Uilliam and to his heirs after him. And the said land is situated in the parish of *Bunraite* in the county of Clare and lies in the north-west part of *Bunraite*. And these are the boundaries of the said land, viz. from the road of *Clais-Cuilein* to the road of *Cluain-muinighi* and from *Tobar-in-chaca* to the road of *Baile-ban*. And part of the said land is of the *Corcach*, viz. *Corcach-an-chlaidhe* and *Rinleacain*. And these are the names of the distributed [conveyed] lands, to wit, *Machaire na sgeithe* and *Gort na cille* and *Gort an lechta* and *Gort an tobair* and the Old Orchard, and every portion of land lying between the lands indicated by these names.

And these are the witnesses for the performance of this covenant, viz. Siacus Ua Connallain the vicar of *Bunraite*, and Tadhg Mac Mathghamhna and the son of Eoin Ua Cearmada, and Tadhg son of Flaithbeartach Ua Lidin, and Conchobhar son of Dabhid Ua Rodain, and Mathghamhan *finn* son of Seán Ua Rodain, and Donnchadh óg Ua Rodain, and Seán son of Conchobhar Ua Rodain, and Murchadh Ua Rodain, and Donnchadh son of Domhnall Ua Tornae i.e. the clerk of Patraic. And the bailiffs in possession of the land are Siacus Ua Connallain vicar of *Bunraite*, and Tadhg Mac Mathghamhna. And the age of the Lord is one thousand and five hundred and three score and thirteen years. And this is the hand of

95 This deed is no. XI in Trans. R.I. Acad. vol.. XV. The year was probably about 1570. The lands are in the parish of Kilnoe.

Maccon son of Seán on giving the fee simple of the said lands to Uilliam son of Seán and this by my will, consent, and mind, and by my seal to this deed.

And I, Conaire son of Muiris son of Torna wrote this with the consent of both parties on the green of *Bunraite*.

misi Conaire *misi* Torna Ua Mailconaire
misi Muireadach Ua Dabhuid.[96]

[f.70]
Soon after the year 1600 legal documents began to be written in English, and according to the established mode of expression current in England. There is an example in Egerton MS 89. Fo. 194 of a copy of a bond on a flyleaf of this MS: – 'The Lily of the Art of Medicine' – of the year 1482, which probably belonged in 1616 to the borrower of the money. The clan Ua h-Iceda were hereditary physicians of the art of medicine in Thomond, and this volume no doubt once belonged to that clan:

> Be it knowne unto all men by these presents that I Charles Hickey of Clonloghane in the Countie of Clare gent., doe acknowledge and confess meselfe to be oweing and duely liable unto John McNamara of Rathlahine in the countie aforesaid in the full sume of one hundered pounds sterl. of good cur. and lawfull money of and in England to be paid unto the said John McNamara and his heirs executors administrators and assigns at or before the first day of May next ensuring, etc etc. Dated 2 January 1616.

[f.71]
Egerton Ms 90 (vellum xvi cent., *c.*1500) { see O'Donovan's transcription for Brehon Law Com. pp. 1956–63 (B. Mus. 6503, i)

Fo. 8: An argument according to Brehon law concerning lands in dispute between certain members of the Mac Conmara clan.

Begins: '*Ag seo na gnéithe er nach roichenn*', etc.

96 This deed is no. XXVIII in Trans. R.I. Acad. vol. XV.

'These are the points of law whereby Muirchertach has no right to sue for such portion of *Eanach mór* as is in the possession of Tadhg's sons', etc.

The lands in dispute were *Eanach mor, Cúil-lios-Taidhg,* near *Dún-easa-Danainne*

Mention is made of
- Lochlainn Macnamara
- Seadhán
- The children of Donnchadh Mac Conmara of Eanach mor
- " " " the son of Seán.

'*... er Lochlainn Mac Conmara e beth na ferand athar ד tsen athar duind.*'

'*... ד ere beth eg Lochlann Mac N. a caithem a bíd ד a tocbáil a císsa er tuibim cuice Ó Dondchadh Mac Namara do bi na bráthir aice*'.

'*Ocus ni fhuil Muirchertach admalach ere ferann do beth ei o Lochlann Mac Namara ד do toe méit éigin fiadhan da muintir fein ד da comarsanaib can ais can indricas a cu er tSeadhan MacNamara da tsolathur ד do dibirt clainni Ceoch de ד a deirmisi na déin sin selb doib er Lochlann do tselbugad in feraind ar dús mar ferund taelfine*'.

[f.72]
—'*Ocus a deir Muirchertach curub dénam seilbe er Tadhg Mac Namara Seadhan do cur na muintire sin de tar eis a athar*'.

—'*agus do gab Fergus ד Donnchad cam ד do gab da fichit bo dindtriall er Cuil lis Taidg o Ruagri O Allmurain*'.

—'*Ocus a deir Muirchertach ד Aedh co tuc Lochlann Mac Namara mar solathur toBartus er Enach mor a tSeán do letligh*'.

— '*ד de ndecha tobartus do clainn Uilliam is túsga tuc Emann mac in iarla ruaig do Donnchadh mac Miccon ma di o sin a faghbail da fagdais lie. ד do thuit cum Lochlainn tar lis Donnchadha mar ferann combrathur ד taelfine ד do tselbhaidur clann Lochlainn,*' etc.

— '*ד ni dechaidh a toburtus do clainn Uilliam uaidhe sin suas acht airid a rucadh cach ferann eile dferand tSlechta Lochlainn*'.

'*A seo ingne ere ndligmait cuit clainni Donnchada Mec Conmara d'Enach mor dfaghbail duin fein, er gur al gaire do glún dúinn hiat na Donnchad mac tSeadhain ד etc.*'

5 Ap. 1911

[f.73]
Egerton Ms 90
c.1500
'*er Lochlainn Mac Conmara*', etc: Concerning Lochlainn Mac Conmara, he to be the lands of our father and grandfather.

'ד *ere beth eg Lochlainn*', etc: And Lochlainn Mac Conmara to have the use of provisions [entertainment] and he to take his rents when due from Donnchadh M. who is his brother.

'*Ocus ni fhuil Muirchertach*', etc: And Muirchertach does not acknowledge having land from Lochlainn Mac Conmara, and a certain number (?) to take the testimony of his own relations and neighbours without their having dependence or hope in Seághan Mac Conmara to provide for them, and to evict the family Keogh out of it, and they not to give possession of theirs [their lands] to Lochlainn Mac Conmara to hold the land at first as family land'.

'*Ocus a deir Muircheartach*', etc: And Muirchertach says that possession was given to Tadhg Mac Conmara, Seághan to be put into that family after his father (?).

'*Agus do gab Fergus* ד *Donnchadh cain*' (not *cam*) and Fergus and Donnchadh to take a fine and to seize 40 cows after a certain period in *Cul Cis Thaidhg* from Ruadhri O hAllmhurain [i.e. O'Halloran].

'*Ocus a deir Muirchertach* ד *Aedh*' etc: And Muirchertach and Aedh say that Lochlainn is to give *Eanach Mór* to Seán as a means of provision (?).

[f.74]
'ד *do ndecha tobartus*', etc: And if provision would be given to the clann Uilliam [Burkes?] the sooner *Emann mae an iarla ruaidh* [or Emann (Edmund for Eaman) son of the Red Earl, but too late for this of course, so must have been a hereditary surname] drives Donnchadh son of Mac Con away the better, if he is yet to get what they would leave him, and to fall into Lochlainn's possession after Donnchadh as land common to the brothers (*Combrathur*) and to the family for the use of (grazed in common) of Lochlainn's children.

'*a seo ingne*', etc: And their allowance will not go from the Clann Uilliam [or children of Uilliam, but Ulick Burke] from that mentioned above, but so much out of every other land in possession of the family of Lochlainn.(?)

'*a seo ingne ere*', etc: There are daughters of the legitimate section of the

children [or race] of Donnchadh Mac Conmara for whom *Eanach Mór* is to be left to us, and they are nearest to us than Donnchadh son of Seádhan, and etc.